CLICK HERE FOR BOOKMARKS

United States District Court

District of Kansas

Rules of Practice and Procedure

for

District and Bankruptcy Court

Effective March 15, 2002

The Court acknowledges the contribution

of the Kansas Federal Bar

whose registration fees paid for the

publishing and distribution of the

Federal Rules of Practice and Procedure.

RULES OF PRACTICE
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF KANSAS

Effective March 15, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
ORDER OF ADOPTION

Pursuant to the authority vested in this Court by Rule and Statute:

IT IS ORDERED that the rules attached hereto and designated "Rules of Practice of the United States District Court for the District of Kansas" are adopted and shall become effective March 15, 2002, and shall supersede the Court's existing rules which are repealed effective March 15, 2002.

DATED this 13th day of March, 2002.

FOR THE COURT

/s/ John W. Lungstrum
JOHN W. LUNGSTRUM
Chief Judge

ATTEST:

/s/ Ralph L. DeLoach
RALPH L. DeLOACH
CLERK

(SEAL)

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHIEF JUDGE
John W. Lungstrum
517 Robert J. Dole U. S. Courthouse
500 State Avenue
Kansas City, Kansas 66101

SENIOR JUDGE
Wesley E. Brown
414 U.S. Courthouse
401 North Market
Wichita, KS 67202

SENIOR JUDGE
Richard D. Rogers
410 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

SENIOR JUDGE
Dale E. Saffels
420 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

SENIOR JUDGE
Sam A. Crow
430 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

SENIOR JUDGE
G. Thomas VanBebber
529 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

DISTRICT JUDGE
Monti L. Belot
111 U.S. Courthouse
401 North Market
Wichita, KS 67202

DISTRICT JUDGE
Kathryn H. Vratil
511 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

DISTRICT JUDGE
J. Thomas Marten
232 U.S. Courthouse
401 North Market
Wichita, KS 67202

DISTRICT JUDGE
Carlos Murguia
537 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

MAGISTRATE JUDGE
Karen M. Humphreys
322 U.S. Courthouse
401 North Market
Wichita, KS 67202

MAGISTRATE JUDGE
Donald W. Bostwick
403 U.S. Courthouse
401 North Market
Wichita, KS 67202

MAGISTRATE JUDGE
David J. Waxse
219 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

MAGISTRATE JUDGE
James P. O'Hara
475 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

PART-TIME MAGISTRATE JUDGE
Catherine A. Walter
495 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

RECALLED MAGISTRATE JUDGE
Gerald L. Rushfelt
208 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

RECALLED MAGISTRATE JUDGE
John Thomas Reid
132 U.S. Courthouse
401 North Market
Wichita, KS 67202

* * * * * * * * * *

CLERK
Ralph L. DeLoach
259 Robert J. Dole U. S. Courthouse
500 State Avenue
Kansas City, KS 66101

WICHITA CLERK'S OFFICE
204 U. S. Courthouse
401 North Market
Wichita, KS 67202
(316) 269-6491

TOPEKA CLERK'S OFFICE
490 U. S. Courthouse
444 Southeast Quincy
Topeka, KS 66683
(785) 295-2610

KANSAS CITY CLERK'S OFFICE
259 Robert J. Dole U. S. Courthouse
500 State Avenue
Kansas City, KS 66101
(913) 551-6719

* * * * * * * * * *

CHIEF BANKRUPTCY JUDGE
James A. Pusateri
215 U. S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

BANKRUPTCY JUDGE
John T. Flannagan
125 Robert J. Dole U. S. Courthouse
500 State Avenue
Kansas City, KS 66101

BANKRUPTCY JUDGE
Julie A. Robinson
225 U. S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

BANKRUPTCY JUDGE
Robert E. Nugent
104 U.S. Courthouse
401 North Market
Wichita, KS 67202

* * * * * * * * * *

BANKRUPTCY CLERK
Fred Jamison
167 U. S. Courthouse
401 North Market
Wichita, KS 67202

WICHITA CLERK'S OFFICE
167 U. S. Courthouse
401 North Market
Wichita, KS 67202
(316) 269-6486

TOPEKA CLERK'S OFFICE
240 U. S. Courthouse
444 Southeast Quincy
Topeka, KS 66683
(785) 295-2750

KANSAS CITY CLERK'S OFFICE
161 Robert J. Dole U. S. Courthouse
500 State Avenue
Kansas City, KS 66101
(913) 551-6732

* * * * * * * * * *

COMMITTEES OF THE COURT

Bench-Bar Committee

Honorable Kathryn H. Vratil, Chair
Hon. Chief Judge John W. Lungstrum, *ex officio*
Hon. J. Thomas Marten
Hon. James A. Pusateri
Mr. David Phillips
Mr. Michael S. Holland
Mr. Mark D. Hinderks
J. Steven Pigg
Hon. Karen M. Humphreys
Mr. Jackie Williams
Mr. David Seely
Ms. Janet M. Simpson
Ms. Evelyn Zabel Wilson

Committee on Conduct of Attorneys

Mr. Paul McCausland, Chair
Mr. Warren McCamish, Vice Chair
Mr. Eric Kjorlie
Ms. Diane Worth
Mr. Gene Balloun
Ms. Jackie Rapstine
Ms. Kathy Babcock

* * * * * * * * * *

TABLE OF RULES

-I-

SCOPE OF RULES

-II-

COMMENCEMENT OF ACTION; PROCESS; SERVICE & FILING OF PLEADINGS, MOTIONS AND ORDERS

-III-

PLEADINGS AND MOTIONS

-IV-

PARTIES

-V-

DEPOSITIONS AND DISCOVERY

-VI-

TRIALS

-VII-

JUDGMENT

-VIII-

PROVISIONAL AND FINAL REMEDIES

-IX-

SPECIAL PROCEEDINGS; MAGISTRATE JUDGES

-X-

DISTRICT COURT AND CLERK

-XI-

GENERAL PROVISIONS

-XII-

ATTORNEYS AND BAR DISCIPLINE

-XIII-

REVIEW OF ADMINISTRATIVE PROCEEDINGS

-XIV-

RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS

-XV-

RULES APPLICABLE TO CRIMINAL CASES

-XVI-

STANDING ORDERS

APPENDIX

- I -

SCOPE OF RULES

RULE 1.1

SCOPE OF RULES; DEFINITIONS; CITATION

These rules shall govern the procedure in all proceedings before this court. They shall, in special cases, be subject to such modification as the court may deem necessary or appropriate to meet emergencies or to avoid injustice or great hardship. As used in these rules, the term "judge" refers to a United States District Court Judge, the term "magistrate" refers to a United States Magistrate Judge, and the term "court" refers to either a United States District Judge or a United States Magistrate Judge. These rules shall be cited as D.Kan. Rule 1.1, e.g.

* * *

As amended 2/16/95.
Renumbered 6/95. Formerly Rule 101.

- II -

COMMENCEMENT OF ACTION; PROCESS; SERVICE & FILING OF PLEADINGS, MOTIONS AND ORDERS

RULE 3.1

COMMENCEMENT OF ACTIONS

Civil Docket Cover Sheet. A civil docket cover sheet, in a form supplied by the clerk, must be completed and submitted with any complaint commencing an action or any notice of removal from state court. Each cover sheet must cite the title and section of the United State Code pursuant to which the action or notice is filed.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 201.

RULE 4.1

SERVICE OF PROCESS IN ACCORDANCE WITH STATE PRACTICE

In cases where the Federal Rules of Civil Procedure authorize service of process in accordance with state practice it shall be the duty of the parties seeking such service to furnish to the clerk forms of all necessary orders and sufficient copies of all papers to comply with the requirements of the state practice, together with specific instructions for the making of such service.

* * *

Renumbered 6/95. Formerly Rule 203.

RULE 4.2

APPOINTMENT OF STATE OFFICERS TO SERVE PROCESS

Whenever service is attempted on behalf of the United States or an officer or agency of the United States under the provisions of Fed.R.Civ.P. 4(d), and service is not waived upon request of the party seeking service, personal service may be made by a United States Marshal or a Deputy United States Marshal or by a sheriff, undersheriff or deputy sheriff of any county of the State of Kansas. In such cases, duly elected or appointed sheriffs, undersheriffs, and deputy sheriffs of counties of the State of Kansas are hereby specially appointed by the court for the purpose of serving process of this court within the territorial limits of their respective counties.

* * *

As amended 6/95.
Renumbered 6/95. Formerly Rule 204.

RULE 5.1

FORM OF PLEADINGS AND PAPERS

(a) Form. Pleadings, motions, briefs, and other papers submitted for filing shall be typewritten or printed on letter size paper. The pages shall be fastened at the upper left corner without manuscript cover. Typewritten documents shall be double-spaced.

(b) Signing of Pleadings. The original of every pleading, motion or other paper filed by an attorney shall bear the genuine signature of at least one attorney of record. The original of every pleading, motion or other paper filed by a party not represented by an attorney shall bear the genuine signature of such *pro se* party. Stamped or facsimile signatures on original pleadings, motions or other papers filed by *pro se* parties or by attorneys are not acceptable.

(c) Telephone Numbers and Addresses and Registration Numbers. Parties or attorneys signing papers submitted for filing shall include their addresses and telephone numbers. Attorneys shall include their state supreme court registration numbers or in cases where the attorney is not admitted to practice in Kansas, their equivalents. Attorneys admitted from the Western District of Missouri, by reciprocal admission, shall include their Kansas District Court registration number. Each attorney or party appearing *pro se* is under a continuing duty to notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or a party appearing *pro se* shall be sufficient notice.

(d) Entry of Appearance by Counsel. Appearances by counsel shall be entered by signing and filing a formal entry of appearance or by signing the initial pleading, motion or notice of removal filed in the case. Entries of appearance shall include the information required under subsection (c) of this rule.

(e) Attorney Appearances in Removal and Transferred Cases. Attorneys appearing in a state court action removed to this court or in cases transferred to the District of Kansas from another United States District Court are not relieved of their obligations to their clients by virtue of removal or transfer. Such attorneys admitted to practice in this court shall be entered as counsel of record in the action in this court. Attorneys not admitted to practice in this Court shall, within 20 days of such removal or transfer, either obtain admission to practice in this Court, if eligible, or associate with an attorney admitted to practice in this Court who shall thereupon move the admission of the attorney not admitted to practice in this Court in accordance with D.Kan.Rule 83.5.4 or move to withdraw in accordance with D.Kan.Rule 83.5.5.

(f) Exhibits to Pleadings or Papers. Bulky or voluminous materials should not be submitted for filing with a pleading or paper or incorporated by reference therein, unless such materials are essential. The court may order any pleading or paper stricken if filed in violation of this rule.

(g) Certificates of Service. Certificates of service of papers pursuant to Fed.R.Civ.P. 5(d) shall state the name and address of the attorney or party served, the capacity in which such person was served (i.e., as attorney for plaintiff or a particular defendant), the manner of service, and the date of service.

* * *

As amended 6/22/98, 2/27/98, 10/20/93.
Renumbered 6/95. Formerly Rule 111.

RULE 5.3

COPIES REQUIRED FOR A THREE-JUDGE COURT

In any action or proceeding required by act of Congress to be heard and determined by a district court of three judges, all pleadings, papers and documents filed subsequent to the designation of the court, as provided in 28 U.S.C. ' 2284(a), shall be filed in quadruplicate, an original and three copies, with the clerk. The clerk shall make timely distribution of documents to the designated judges.

* * *

Renumbered 6/95. Formerly Rule 208(b).

RULE 6.1

TIME

(a) Motions for an Extension of Time to Perform an Act. All motions for an extension of time to perform an act required or allowed to be done within a specified time shall show (1) if there has been prior consultation with opposing counsel and the views of opposing counsel; (2) the date when the act was first due; (3) if prior extensions have been granted, the number of extensions granted and the date of expiration of the last extension; and (4) the cause for the requested extension. Extensions will not be granted unless the motion is made before the expiration of the specified time, except upon a showing of excusable neglect. Subject to the provisions of Fed.R.Civ.P. 29, stipulations for extension of time are subject to the approval of the court.

(b) Motions for Continuance. Motions to continue a pretrial conference, a hearing on a motion, or the trial of an action must be filed with the clerk reasonably in advance of the hearing date and shall reflect the views of opposing counsel.

(c) Proposed Orders. A proposed order shall be attached to all motions for extensions of time.

(d) Joint or Unopposed Motions. Subject to the provisions of Fed.R.Civ.P. 29, stipulations for extensions of time are subject to the approval of the court. Pretrial conferences, hearings on motions, and trials shall not be continued upon stipulation of counsel.

(e) Time for Filing of Responses and Replies.

(1) Nondispositive motions. Responses to nondispositive motions (motions which are not motions to dismiss or for summary judgment) shall be served within 11 days. Replies shall be served within 11 days of the service of the response.

(2) Dispositive motions. A party shall have 20 days to respond to a motion to dismiss or for summary judgment. After the service of a memorandum in opposition, the moving party may file a reply memorandum in support of the motion within 20 days.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 114.

RULE 6.2

EFFECTIVE DATE OF COURT FILINGS FOR PURPOSES OF CALCULATING LIMITATION PERIODS

Unless specifically provided otherwise, in determining filing deadlines under both the federal procedural rules and the local rules of this court, the relevant date for calculating a limitation period dependent on the filing of a court order shall be the file stamp date appearing on the order. Neither the date on which the judge signs the order nor the date on which the clerk's office enters the order on the docket has any relevance for purposes of calculating the limitation period.

* * *

New rule, adopted 6/11/98.

- III -

PLEADINGS AND MOTIONS

RULE 7.1

MOTIONS IN CIVIL CASES

(a) Form and Filing. All motions, unless made during a hearing or at trial, shall be in writing and shall be filed with the clerk. An original and one copy of all motions shall be filed, and except for motions pursuant to Rules 6.1(a) through (d) and 77.2, shall be accompanied by a brief or memorandum unless otherwise provided in these rules. With the approval of the Court, parties may be relieved from the requirement of serving and filing written briefs or memoranda in support of motions, responses and replies.

(b) Joint or Unopposed Motions. If a motion is joint or unopposed, a statement to this effect shall be contained in the caption and in the body of the motion. Also, a proposed order shall be attached to the motion.

(c) Responses and Replies to Motions. Within the time provided in D. Kan. Rule 6.1, a party opposing a motion shall file an original and one copy with the clerk and serve upon all other parties a written response to the motion containing a short, concise statement of its opposition to the motion, and if appropriate, a brief or memorandum in support thereof. The moving party may file an original and one copy with the clerk and serve upon all other parties a written reply memorandum.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 206(a) and (b).

RULE 7.2

ORAL ARGUMENTS ON MOTIONS

Requests for oral arguments on motions shall be granted only at the discretion of the court. The court, on its own initiative may set any motion for oral argument or hearing. If oral argument is to be heard, the motion shall be promptly set for hearing. Otherwise, motions shall be submitted and determined on the written memoranda of the parties.

* * *

Renumbered 6/95. Formerly Rule 206(d).

RULE 7.3

MOTIONS TO RECONSIDER

A party may file a motion asking a judge or magistrate judge to reconsider an order or decision made by that judge or magistrate judge.

(a) Dispositive Orders and Judgments. Motions seeking reconsideration of dispositive orders or judgments must be filed pursuant to Fed.R.Civ.P. 59(e) or 60. Reconsideration of such an order or judgment will not be granted under this rule.

(b) Non-dispositive Orders. Motions seeking reconsideration of non-dispositive orders shall be filed within ten days after the filing of the order unless the time is extended by the court. A motion to reconsider shall be based on (1) an intervening change in controlling law, (2) the availability of new evidence, or (3) the need to correct clear error or prevent manifest injustice.

* * *

As amended 6/11/98.
Renumbered 6/95. Formerly Rule 206(f).

RULE 7.4

FAILURE TO FILE AND SERVE MOTION PAPERS

The failure to file a brief or response within the time specified within Rule 6.1(e) shall constitute a waiver of the right thereafter to file such brief or response, except upon a showing of excusable neglect. A motion not accompanied by a required brief or memorandum may, in the discretion of the court, be summarily denied. A response unaccompanied by a required brief or memorandum may, in the discretion of the court, be disregarded and the pending motion may be considered and decided as an uncontested motion. If a respondent fails to file a response within the time required by Rule 6.1(e), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

* * *

Renumbered 6/95. Formerly Rule 206(g).

RULE 7.5

APPLICATION OF THIS RULE

Local Rules 7.1 through 7.5 shall be applicable to all motions in civil cases, including motions and objections relating to discovery, to appeals in bankruptcy, and to motions to review orders of magistrate judges.

* * *

Renumbered 6/95. Formerly Rule 206(h).

RULE 7.6

BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court shall contain:

(1) A statement of the nature of the matter before the court.

(2) A concise statement of the facts. Each statement of fact should be supported by reference to the record in the case.

(3) A statement of the question or questions presented.

(4) The argument, which shall refer to all statutes, rules and authorities relied upon.

Any exhibits attached to motion briefs or memoranda shall be tabbed, and an index of such exhibits shall be provided to the court.

(b) Citation of Unpublished Decisions. Unpublished decisions may be cited only if the unpublished decision is furnished to the court and to opposing parties or their counsel when the memorandum is filed. Unpublished decisions should be cited as follows: Smith v. Jones, No. 872302 (D. Kan., March 1, 1987).

(c) Additional Copies of Briefs for Court Use. At the time the original of a brief is filed, a working copy of the brief for use by the judge or magistrate shall be delivered to the clerk of the court or to the judge or magistrate.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 206(a) and (b).

RULE 9.1

HABEAS CORPUS, MOTIONS TO VACATE AND CIVIL RIGHTS COMPLAINTS BY PRISONERS

(a) Use of Official Forms Required. Petitions for writs of *habeas corpus* pursuant to 28 U.S.C. ' 2241 and 28 U.S.C. ' 2254, motions to vacate sentence pursuant to 28 U.S.C. ' 2255, and motions to correct or reduce sentence pursuant to Fed.R.Crim.P. 35 by persons in custody pursuant to a judgment of a court shall be in writing, signed and verified. Such petitions, motions and civil rights complaints by prisoners under 42 U.S.C. ' 1983 and pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971) shall be on forms approved by the court and supplied without charge by the clerk of the court upon request.

(b) Required Information. Every petition, motion to vacate and motion to correct or reduce sentence shall contain the following information:

(1) Petitioner's full name and prison number (if any).

(2) Name of the respondent.

(3) Place of petitioner's detention.

(4) Name and location of the court which imposed sentence.

(5) Case number and the offense or offenses for which sentence was imposed.

(6) The date on which sentence was imposed and the terms of the sentence.

(7) Whether a finding of guilty was made after a plea of guilty, not guilty or *nolo contendere*.

(8) In the case of a petitioner who has been found guilty following a plea of not guilty, whether that finding was made by a jury or a judge without a jury.

(9) Whether petitioner appealed from his or her conviction or the imposition of sentence, and if so, the name of each court to which he or she appealed, the results of such appeals, and the date of such results.

(10) Whether petitioner was represented by an attorney at any time during the course of the proceedings under which sentence was imposed, and the name(s) and address(es) of such attorney(s) and the proceedings in which petitioner was represented; whether the attorney was one of petitioner's own choosing or appointed by the court.

(11) Whether a plea of guilty was entered pursuant to a plea bargain, and if so, the terms and conditions of the agreement.

(12) Whether petitioner testified at trial (if any).

(13) Whether petitioner has any petition, application, motion or appeal currently pending in any court, and if so, the name of the court and the nature of the proceeding.

(14) Whether petitioner has filed in any court, state or federal, previous petitions, applications or motions with respect to this conviction; if so, the name and location of each such court, the specific nature of the proceedings therein, the disposition thereof, the date of each disposition and citations (if known) of any written opinions or orders.

(15) In concise form, the grounds upon which petitioner bases his or her allegations that he or she is held in custody unlawfully or that his or her sentence is illegal, imposed in an illegal manner, or should be reduced; the facts which support each of the grounds; whether any such grounds have been previously presented to any court by petition, motion or application; if so, which grounds have been previously presented and in what proceedings; if any grounds have not been previously presented, which grounds have not been so presented and the reasons for not presenting them.

(c) Additional Information in Challenges of a State Conviction. The following additional information shall be supplied by a petitioner in challenging a state conviction: If petitioner did not appeal from the judgment of conviction or imposition of sentence, the reasons why he or she did not do so, and a showing that he or she has exhausted his or her remedies in state court.

(d) Additional Information Required in Challenges to Federal Custody Pursuant to 28 U.S.C. ' 2255. The following additional information shall be supplied by a petitioner in federal custody seeking a writ of *habeas corpus* or relief by motion pursuant to 28 U.S.C. ' 2255:

(1) The name of the judge who imposed sentence.

(2) In concise form, the grounds on which petitioner bases his or her allegation that the sentence imposed upon him or her is invalid; the facts which support each of the grounds; whether any such grounds have been presented to any federal court by way of petition for writ of *habeas corpus*, motion pursuant to 28 U.S.C. ' 2255, or any other petition, motion or application; if so, which grounds have been previously presented and in which proceedings; if any grounds have not been previously presented, which grounds have not been so presented and the reasons for not presenting them.

(3) Whether petitioner has filed in any court petitions for *habeas corpus*, motions pursuant to 28 U.S.C. ' 2255 or any other petitions, motions or applications with respect to the conviction; if so, the name and location of each such court, the specific nature of the proceedings therein, the disposition thereof, the date of each such disposition and citations, if known, of any written opinion or order entered therein or copies (if available) of such opinions or orders.

(4) If a previous motion pursuant to 28 U.S.C. ' 2255 was not filed or if such a motion was filed and denied, the reasons petitioner's remedy by way of such motion was inadequate or ineffective to test the legality of his detention.

(e) All Grounds for Relief Required; Successive Petitions. Petitions and motions for post-conviction relief submitted pursuant to this rule shall specify all grounds for relief which are available to the petitioner or movant and of which he or she has or by the exercise of reasonable diligence, should have knowledge. Before filing a second or successive habeas corpus application, the applicant must file a motion, pursuant to 28 U.S.C. ' 2244(b)(3), with the Tenth Circuit Court of Appeals for an order authorizing this court to consider the application. Absent such authorization from the Tenth Circuit Court of Appeals, the second or successive habeas corpus application shall be dismissed.

(f) Information in Section 1983 Cases and Bivens Cases. The following information shall be supplied by a prisoner who is a plaintiff in a civil rights action filed pursuant to 42 U.S.C. ' 1983:

(1) Plaintiff's full name;

(2) Place of plaintiff's residence;

(3) Names of defendants;

(4) Places of defendants' residence;

(5) Title and position of each defendant;

(6) Whether the defendants were acting under color of state law or as federal agents at the time the claim alleged in the complaint arose;

(7) A brief statement of the facts;

(8) The grounds upon which plaintiff bases his or her allegations that constitutional rights, privileges or immunities have been violated, together with the facts which support each of those grounds;

(9) A statement of prior judicial and administrative relief sought; and

(10) A statement of the relief requested.

(g) Proceedings in Forma Pauperis. Where a petition, motion or complaint is tendered for filing *in forma pauperis*, a *pro se* petitioner, movant or plaintiff shall complete the motion for leave to proceed *in forma pauperis* and a supporting affidavit on the forms supplied by the clerk and shall set forth information regarding his or her ability to prepay the costs and fees of the proceeding or give security therefor. In all cases in which petitioner, movant or plaintiff is an inmate of a penal institution and desires to proceed *in forma pauperis*, in addition to the affidavit of poverty required by 28 U.S.C. ' 1915, he or she shall submit a certificate executed by an authorized officer of the institution in which he or she is confined stating the amount of money or securities on deposit to his or her credit in any account in the institution. The certificate may be considered by the court in acting on the motion for leave to proceed *in forma pauperis*. In the absence of exceptional circumstances, leave to proceed *in forma pauperis* may be denied if the value of the money and securities in petitioner's, movant's or plaintiff's institutional account

exceeds $150.00. If leave to proceed *in forma pauperis* is granted, the court may proceed where appropriate under Fed.R.Civ.P. 4(d) to obtain waiver of service of summons on behalf of the inmate plaintiff. If waiver is not obtained, the court will order services of summons and complaint by the United States Marshal or a Deputy United States Marshal.

(h) Tender of Pleadings to Clerk. Petitioners or movants seeking post-conviction relief shall send or deliver to the clerk the original and two copies of the petition or motion. Plaintiffs submitting complaints for civil rights relief shall submit the original and one copy of the complaint for the court and one copy for each of the persons named as a defendant in the complaint. If tendered for filing by mail, petitions, motions or complaints shall be addressed: Clerk of the United States District for the District of Kansas, 490 U.S. Courthouse, 444 Southeast Quincy, Topeka, Kansas 66683.

(i) Failure to Comply With Rules. A petition, motion or complaint tendered to the clerk for filing which does not comply with this rule may be returned by the clerk together with a copy of this rule and a statement of the reason or reasons for its return. Noncomplying petitions, motions or complaints shall be returned if the clerk is so directed by the court. The clerk shall retain one copy of each noncomplying petition, motion or complaint returned. If the clerk is in doubt as to whether a petition, motion or complaint complies with this rule, he shall refer the same to a judge or magistrate judge of this court, who shall determine the matter or assign it for determination.

(j) Filing and Docketing. Petitions, motions or complaints complying with this rule which are tendered for filing *in forma pauperis* shall be docketed by the clerk and referred to the court for further proceedings. The clerk shall serve by mail a copy of the petition or motion, together with a notice of its filing, on the Attorney General of the state involved or on the United States Attorney for the district in which the judgment under attack was entered. The filing *in forma pauperis* of such petition, motion or complaint shall not require an answer or other responsive pleading unless the court orders otherwise.

(k) Case Management. All cases filed by a prisoner shall be exempt from requirements under the Federal Rules of Civil Procedure that mandate a scheduling order, Fed.R.Civ.P. 16(b), disclosure of information, Fed.R.Civ.P. 26(a), and a planning meeting between the parties or their attorneys, Fed.R.Civ.P. 26(f). These exemptions do not preclude the court from imposing any or all of these requirements if necessary for effective management of a particular action.

* * *

NOTE: This is a mandated rule.
As amended 2/27/98.
Renumbered 6/95. Formerly Rule 307.

RULE 11.1

SANCTIONS

(a) Sanctions Under These Rules, Fed.R.Civ.P. 11, and Other Rules and Statutes.

(1) On Court's Own Initiative. The court, upon its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, Fed.R.Civ.P. 11, 28 U.S.C. ' 1927, or other provisions of the federal rules or statutes. The court shall state the reasons therein for issuing the show cause order. Unless otherwise ordered, all parties may respond within ten days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(2) On a Party's Motion. The issue of sanctions may be raised by a party's timely-filed motion and responded to in the same manner as specified above.

(3) Procedure. The court may rule forthwith on either or both of the issues of violation and of the nature and extent of any sanction imposed as raised in its order to show cause or a party's motion and responses thereto. Discovery and evidentiary hearings on the question of sanctions will be permitted only when ordered by the court. In ruling on the imposition of sanctions, the court shall articulate the factual and legal bases for its decision.

(b) Imposition of Sanctions. In addition to the sanctions provided for violations of Fed.R.Civ.P. 11 and other federal rules and statutes, for violation of a local rule or order of the court, the court may make such orders as are just under the circumstances of the case, including the following:

(1) An order that designated matters or facts shall be taken as established for purposes of the action.

(2) An order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting it from offering specified witnesses or introducing designated matters in evidence.

(3) An order striking pleadings or parts thereof, or staying proceedings until the rule is complied with, or dismissing the action or any part thereof, or rendering a judgment by default against the failing party.

(4) An order imposing costs, including attorney's fees, against the party, or its attorney, who has failed to comply with a local rule.

(c) Sanctions Within the Discretion of the Court. The imposition of sanctions for violation of a local rule or order is discretionary with the court. In considering the imposition of sanctions, the court may consider whether a party's failure was substantially justified or whether other circumstances make the imposition of sanctions inappropriate.

* * *

Renumbered 6/95. Formerly Rule 110(a) through (c).

RULE 15.1

MOTIONS TO AMEND AND FOR LEAVE TO FILE

(a) Motions to Amend. In addition to the other requirements of Local Rules 7.1 through 7.5, a motion to amend shall set forth a concise statement of the amendment sought to be allowed, with the signed original, and one copy of the proposed amended pleading, attached. If the court grants the motion to amend, the clerk shall detach and file the original amended pleading, and it will be deemed filed as of the date of the filing of the order granting the motion, unless the order otherwise provides. The moving party shall serve the amended pleading on the opposing party within 10 days after the amended pleading is deemed filed. The moving party shall also file a separate certificate of service. Consistent with Fed.R.Civ.P. 15(a), Aa party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be longer, unless the court orders otherwise.@

(b) Motions for Leave to File Out of Time or Supplemental Pleadings. In addition to the other requirements of Rules 7.1 through 7.5, a motion for leave to file a pleading or other document which cannot be filed as a matter of right shall set forth a concise statement of the leave sought to be allowed and shall attach the signed original and one copy of the proposed pleading. If the court grants the motion for leave to file, the clerk shall detach and file the original proposed pleading, and it will be deemed filed as of the date of the filing of the order granting the motion, unless the order otherwise provides. The moving party shall serve the proposed pleading on the opposing party within 10 days after the proposed pleading is deemed filed. The moving party shall also file a separate certificate of service.

* * *

As amended 12/19/00, 4/8/99, 10/22/98.
Renumbered 6/95. Formerly Rule 206(e).

RULE 16.1

PRETRIAL CONFERENCES, SCHEDULING, CASE MANAGEMENT

As soon as the case has been docketed, the clerk shall forward it to a resident magistrate judge or judge for such pretrial conferences and case supervision and management as are provided by Fed.R.Civ.P. 16. Except in categories of actions exempted by this rule as inappropriate, the magistrate judge or judge shall hold such conferences and hearings and issue such orders as are provided by the provisions of Fed.R.Civ.P. 16. Unless otherwise ordered by the court in a particular case, the following categories of actions are exempted from the requirements of Fed.R.Civ.P. 16(b) as inappropriate for the issuance of scheduling orders, and are also exempted from the provisions of Fed.R.Civ.P. 26(a) related to disclosures and Fed.R.Civ.P. 26(f) related to planning meetings between the parties:

(a) Social security cases and other actions for review of administrative decisions.
(b) All cases filed by *pro se* prisoners or directly related to the litigant's incarceration.
(c) Governmental administrative enforcement proceedings.
(d) Forfeiture proceedings.
(e) Eminent domain proceedings.
(f) Bankruptcy appeals.

* * *

Renumbered 6/95. Formerly Rule 207.

RULE 16.2

FINAL PRETRIAL CONFERENCE

(a) General Provisions. The pretrial conference contemplated by Fed.R.Civ.P. 16(d) shall be held before a judge or magistrate judge with court participation throughout unless otherwise directed by the court. Ordinarily discovery shall have been completed and the parties shall be prepared to complete the procedural steps set out in this rule. If additional witnesses or evidence are discovered after the pretrial conference, the discovering party shall immediately make this known to all parties and to the court in writing. Parties may be present at the pretrial conference and shall be present when ordered by the court.

The court shall prepare the pretrial order or designate counsel to do so. At a time ordered by the court under Fed.R.Civ.P. 16(b)(5), the parties shall submit a proposed final pretrial order in the prescribed form. The parties have joint responsibility to attempt in good faith to formulate an agreed order which the judge can sign at the conference. If the parties disagree on any particulars, they are each to submit proposed language on the points in controversy, for the judge to rule on at the conference. To Aattempt in good faith to formulate an agreed order" means more than mailing or faxing a form or letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult and deliberate, or in good faith attempt to do so. Objections to the pretrial order shall be made in writing and within such time as the court may specify.

(b) Procedure at Final Pretrial Conference. The pretrial conference shall be conducted substantially in conformity with the following procedural steps:

(1) The parties shall state the basis for the court's jurisdiction and any objections to jurisdiction, venue or propriety of the parties.

(2) The parties shall state concisely their factual contentions and the theories of their claims, defenses, and claims for relief.

(3) The court may rule upon any proposed amendments.

(4) Court and counsel will confer as to matters not disputed and requests will be made for admissions and stipulations.

(5) The issues of fact and issues of law shall be stated.

(6) Discovery remaining to be completed in the case shall be discussed and provision shall be made for its completion if further discovery is permitted by the court.

(7) Provision shall be made for the exchange and filing of lists of witnesses to be called at trial and exhibits intended to be offered at trial.

(8) Pending motions shall be enumerated and anticipated motions shall be stated.

(9) A determination as to whether the case is for trial to the court or to a jury shall be made.

(10) The position of the parties relative to settlement shall be considered and the possibility of settlement explored, including the feasibility of a settlement conference, summary trial, mediation, arbitration, or other alternative methods of dispute resolution.

(11) Ordinarily, only witnesses listed pursuant to pretrial orders may be called to give testimony at trial. However, the court may, in its discretion, permit a party to call a witness not listed by that party or any party under such circumstances as the court deems just.

(c) Effect of Pretrial Order. The pretrial order, when approved by the court and filed with the clerk, together with any memorandum entered by the court at the conclusion of the final pretrial conference, will control the subsequent course of the action unless modified by consent of the parties and court, or by an order of the court to prevent manifest injustice.

(d) Sanctions. Should counsel or a pro se litigant fail to appear at the pretrial conference or fail to comply in good faith with the provisions of this rule, the court may, in its discretion, enter a judgment

of dismissal or default. Alternatively, or in addition thereto, the court may impose any sanction provided for in Fed.R.Civ.P. 16(f) or Local Rule 11.1.

(e) Witness and Exhibit Lists and Disclosures. At times ordered by the court under Fed.R.Civ.P. 16(b) and (c)(7), the parties will exchange and file lists of proposed witnesses and exhibits.

(1) Content of Lists and Disclosures. Witness lists shall set forth the address of each witness, as well as the subject matter, and a brief synopsis of the substance of the facts to which each witness is expected to testify. Witnesses and exhibits listed by one party may be called or offered by the other party. Witnesses and exhibits not identified and exchanged as required by the court's order shall not be permitted to testify or be received in evidence, respectively, except by agreement of counsel or upon order of the court. This restriction does not apply, however, to rebuttal witnesses or documents, the necessity of which could not reasonably be anticipated as of the deadline for filing final witness and exhibit lists. The provisions of Fed.R.Civ.P. 26(a)(3) and 26(a)(4) shall apply to disclosures. The parties' disclosures shall designate deposition testimony (transcript or videotaped) by reference to specific pages and lines or other appropriate method for videotape testimony, and also shall specifically identify specific deposition exhibits to be used. Witnesses expected to testify as experts shall be so designated.

(**2) Trial Exhibits**. Before meeting with the courtroom deputy to mark exhibits, the parties shall exchange copies of all proposed exhibits and attempt to agree as to their authenticity and relevancy.

(3) Testimony By Deposition. With respect to any witness who will appear by deposition, the disclosure shall designate by page and line (or other appropriate designation in the case of a videotaped deposition) those portions of the deposition the offering party intends to read into evidence. The opposing party shall then serve upon the offering party a counter designation of those portions of the deposition which the opposing party believes in fairness ought to be considered with the part the offering party has designated in accordance with Fed.R.Civ.P. 32(a)(4). Any disputes between the parties concerning deposition testimony, including any unresolved evidentiary objections, shall be brought to the attention of the Court by a separate filing with the Clerk of Court, not later than the Friday before trial. The objecting party shall deliver a copy of the deposition to the judge along with this filing. A party intending to offer deposition evidence at trial shall provide the trial judge a copy of the deposition before the commencement of trial. For any depositions used at trial, all exhibit designations shall be re-marked by the offering party to correspond to the trial exhibit designations.

* * *

As amended 9/00; 3/20/92.
Renumbered 6/95. Formerly Rule 213.

RULE 16.3

ALTERNATIVE DISPUTE RESOLUTION

Consistent with Fed.R.Civ.P. 16, the judge or magistrate judge to whom a case has been assigned will likely enter an order directing counsel and the parties, at the earliest appropriate opportunity, to attempt to resolve or settle their dispute using such extra-judicial proceedings as mediation, mini-trials, summary jury trials or other alternative dispute resolution programs. Any such order may set forth the terms of the extra-judicial proceedings. Pursuant to 28 U.S.C. ' 652, as amended October 30, 1998, litigants in all civil cases are required to consider the use of an alternative dispute resolution process, including, but not limited to, mediation, settlement conferences, early neutral evaluation, mini trial, and arbitration as authorized in 28 U.S.C. '' 654 through 658, at an appropriate stage in the litigation. Specific cases in which use of alternative dispute resolution would not be appropriate may be exempt from this requirement.

Settlement conferences shall be conducted in such a way as to permit an informative discussion between counsel and the parties, and the judge, magistrate judge, or mediator of every possible aspect of the case bearing on its settlement, thus permitting the judge, magistrate judge, or mediator to privately express his or her views concerning the settlement of the case. Attendance by a party representative with settlement authority at such conferences is mandatory, unless the court orders otherwise. In cases where the United States is a party, attendance at the conference by the United States Attorney for the District of Kansas will satisfy this rule.

Settlement conference statements or memoranda submitted to the court or any other communications which take place during the settlement conference shall not be used by any party in the trial of the case. The judge, magistrate judge, or mediator presiding over the settlement conference shall not communicate to the judge or magistrate judge trying the case the confidences of the conference except to advise as to whether or not the case has been settled. If the conference is conducted by a mediator, the costs of the conference, including the reasonable fees of the mediator, shall be assessed to the parties in such proportions as shall be determined by the judge or magistrate judge.

* * *

As amended 4/8/99, 2/28/97, 2/3/95.
Renumbered 6/95. Formerly Rule 214.
Further renumbered 2/97.

- IV -

PARTIES

RULE 23.1

CLASS ACTIONS

(a) Class Action Complaint. The complaint in a class action case shall bear next to its caption the legend, "Complaint -- Class Action." The complaint shall contain, under a separate heading styled "Class Action Allegations," the following:

(1) A reference to the portion or portions of Fed.R.Civ.P. 23 under which it is claimed that the suit is properly maintainable as a class action.

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(A) The size and definition of the alleged class.

(B) The basis upon which the plaintiff claims (i) to be an adequate representative of the class; or (ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class; (iii) the alleged question of law or fact claimed to be common to the class; and (iv) for actions sought to be maintained under Fed.R.Civ.P. 23(b)(3), allegations thought to support the findings required by that subdivision.

(b) Motion for Class Action Determination. Within 90 days after the filing of a complaint in a class action, unless the period is extended by court order, the plaintiff shall file a separate motion for a determination under Fed.R.Civ.P. 23(c)(1), as to whether the case may be maintained as a class action. If a party wishes to present oral testimony to support the class action motion, it must so inform the court in its motion. In ruling upon such a motion, the court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewing the motion.

(c) Class Action Counterclaims or Cross-Claims. The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

(d) Burden of Proof; Notice. The burden shall be upon any party seeking to maintain a case as a class action to present an evidentiary basis to the court showing that the action is properly maintainable as such. If the court determines that an action may be maintainable as a class action, the party obtaining that determination shall, unless otherwise ordered by the court, initially bear the expenses of and be responsible for giving such notice as the court may order to members of the class.

* * *

As amended 9/28/87.
Renumbered 6/95. Formerly Rule 209.

RULE 24.1

PROCEDURE FOR NOTIFICATION OF ANY CLAIM OF UNCONSTITUTIONALITY

If at any time prior to the trial of an action to which (1) neither the United States nor any of its officers, agencies or employees is a party and a party draws in question the constitutionality of an act of Congress affecting the public interest, or (2) neither the state nor any of its agencies, officers or employees is a party and a party draws in question the constitutionality of any statute of that state affecting the public interest, that party, to enable the court to comply with 28 U.S.C. ' 2403, shall notify the court. The notice shall be in writing, stating the title of the action, the statute in question, and the respects in which it is claimed that the statute is unconstitutional, and a copy shall be served upon the Attorney General of the United States and the United States Attorney in this district or the Attorney General of the State of Kansas as applicable.

* * *

Renumbered 6/95. Formerly Rule 208(a).

- V -

DEPOSITIONS AND DISCOVERY

RULE 26.1

COMPLETION TIME FOR DISCOVERY

In civil cases other than patent infringement cases and antitrust cases, discovery should be completed within four months after the case becomes at issue, or within four months after a scheduling order is issued pursuant to Fed.R.Civ.P. 16(b). In patent and antitrust cases, discovery should be completed within eight months. The court, for good cause shown, may establish longer or shorter periods for the completion of discovery.

* * *

Renumbered 6/95. Formerly Rule 210(a).

RULE 26.2

MOTIONS FOR PROTECTIVE ORDERS

The filing of a motion for a protective order pursuant to Fed.R.Civ.P. 26(c) or 30(d) shall stay the discovery at which the motion is directed pending order of the court. The filing of a motion to quash or modify a deposition subpoena pursuant to Fed.R.Civ.P. 45 (c)(3)(A), or a motion to order appearance or production only upon special conditions pursuant to Fed.R.Civ.P. 45(c)(3)(B), shall stay the deposition at which the motion is directed. No properly noticed deposition shall be automatically stayed under this rule unless the motion directed at it shall have been filed and served upon counsel or parties by delivering a copy within 11 days after service of the deposition notice, and at least 48 hours prior to the noticed time of the deposition. Pending resolution of any motion which stays a deposition under this rule, neither the objecting party, witness, nor any attorney shall be required to appear at the deposition to which the motion is directed until the motion has been ruled upon or otherwise resolved.

* * *

Renumbered 6/95. Formerly Rule 210(c).

RULE 26.3

DISCLOSURES AND DISCOVERY NOT TO BE FILED

Disclosures required under Fed.R.Civ.P. 26(a)(1) and (2), interrogatories under Fed.R.Civ.P. 33, requests for production or inspection under Fed.R.Civ.P. 34, and requests for admissions under Fed.R.Civ.P. 36, and the responses thereto, shall be served upon other counsel or parties, if not represented by counsel, but shall not be filed with the clerk. A party serving such disclosures and discovery shall at the time of service file with the clerk a certificate of service stating the type of disclosure or discovery or response served, the date and type of service, and the party served.

* * *

As amended 2/16/95.
Renumbered 6/95. Formerly Rule 210(h).

RULE 26.4

EXPERT WITNESSES

(a) Court-Appointed Experts. If a judge determines that the appointment of expert witnesses in an action may be desirable the judge shall order the parties to show cause why expert witnesses should not be appointed, and after opportunity for hearing, may request nominations and appoint one or more such witnesses. If the parties agree in the selection of an expert or experts, only those agreed upon shall be appointed. Otherwise, the judge may make the selection. The judge shall determine the duties of the witness and inform the witness thereof at a conference at which the parties shall have an opportunity to participate. A witness so appointed shall advise the parties of the findings of the witness, if any, and may thereafter be called to testify by the judge or by any party. The witness may be examined and cross-examined by any party.

This rule shall not limit the parties in calling their own expert witnesses. Expert witnesses appointed pursuant to this rule shall be entitled to reasonable compensation in such sum as the judge may allow. Such compensation shall be paid as follows:

(1) In a criminal case by the United States as the judge shall order out of available funds;

(2) In a civil case by the parties in equal portions, unless the judge otherwise directs,

and the compensation shall be taxed as costs in the case.

(b) Stipulations Regarding Experts. Notwithstanding the provisions of Fed.R.Civ.P. 26(a)(2)(B), no exception to the requirements of the rule will be allowed by stipulation of the parties unless the stipulation is in writing and filed and approved by the court.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 211.

RULE 30.1

NOTICE OF DEPOSITIONS

The reasonable notice provided by Fed.R.Civ.P. 30(b)(1) for the taking of depositions shall be five days. The court, for good cause shown, may enlarge or shorten such time. Fed.R.Civ.P. 6 shall govern the computation of time.

* * *

Renumbered 6/95. Formerly Rule 210(b).

RULE 30.2

DEPOSITIONS; NOT TO BE FILED; DELIVERY

Depositions shall not be filed with the clerk unless ordered by the court. The originals of all stenographically reported depositions shall be delivered to the party noticing the deposition, (1) upon signature by the deponent or (2) upon completion if signature is waived on the record by the deponent and all interested parties, or (3) upon certification by the shorthand reporter that following reasonable notice to the deponent and deponent's counsel of the availability of the transcript for signature the deponent has failed or refused to sign it. The original of the deposition shall be retained by the party to whom it is delivered to be available for appropriate use by any party in a hearing or trial of the case.

* * *

Renumbered 6/95. Formerly Rule 210(g).

RULE 30.3

TIME FOR TAKING DEPOSITIONS

The deposition of a material witness not subject to subpoena should ordinarily be taken during the discovery period. However, the deposition of a material witness who agrees to appear at trial, but who later becomes unable or refuses to attend, may be taken at any time prior to trial.

* * *

Formerly a part of Rule 35.1.

RULE 32.1

USE OF DISCOVERY AT TRIAL

If depositions, interrogatories, requests for production or inspection, or admissions, or responses thereto are to be used at trial, the portions to be used shall be filed with the clerk at the beginning of trial insofar as their use reasonably can be anticipated.

* * *

Renumbered 6/95. Formerly Rule 210(I).

RULE 33.1

ADDITIONAL INTERROGATORIES TO THOSE PERMITTED BY FED. R. CIV. P. 33(a)

Requests for leave to serve additional interrogatories to those permitted by Fed.R.Civ.P. 33(a) shall be by motion which shall set forth the proposed additional interrogatories and the reasons establishing good cause for their service. Such motion shall be subject to the provisions of D. Kan. Rule 37.2.

* * *

Renumbered 6/95. Formerly Rule 210(d).

RULE 33.2

FORMAT FOR INTERROGATORIES

Sufficient space for the insertion of an answer shall be left following each interrogatory served pursuant to Fed.R.Civ.P. 33. Each answer to an interrogatory shall be immediately preceded by the interrogatory being answered.

* * *

Renumbered 6/95. Formerly Rule 210(e).

RULE 35.1

TRIAL PREPARATION AFTER CLOSE OF DISCOVERY

Pursuant to Fed.R.Civ.P. 35 the physical or mental examination of a party may be ordered at any time prior to trial.

* * *

Renumbered 6/95. Formerly Rule 210(k).

RULE 37.1

MOTIONS RELATING TO DISCOVERY

(a) Content of Motions. Motions under Fed.R.Civ.P. 26(c) or 37(a) directed at depositions, interrogatories, requests for production or inspection, or requests for admissions under Fed.R.Civ.P. 30, 33, 34 or 36, or at the responses thereto, shall be accompanied by copies of the notices of depositions, the portions of the interrogatories, requests or responses in dispute. Motions under Fed.R.Civ.P. 45(c) directed at subpoenas shall be accompanied by a copy of the subpoena in dispute.

(b) Time for Filing Motions. Any motion to compel discovery in compliance with D. Kan. Rules 7.1 and 37.2 shall be filed and served within 30 days of the default or service of the response, answer or objection which is the subject of the motion, unless the time for filing of such motion is extended for good cause shown. Otherwise the objection to the default, response, answer, or objection shall be waived.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 210(f).

RULE 37.2

DUTY TO CONFER CONCERNING DISCOVERY DISPUTES

The court will not entertain any motion to resolve a discovery dispute pursuant to Fed.R.Civ.P. 26 through 37, or a motion to quash or modify a subpoena pursuant to Fed.R.Civ.P. 45(c), unless counsel for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed.R.Civ.P. 26(c) and 37 and this rule related to the efforts of the parties to resolve discovery or disclosure disputes shall describe with particularity the steps taken by all counsel to resolve the issues in dispute.

A "reasonable effort to confer" means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult and deliberate, or in good faith attempt to do so.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 210(j).

- VI -

TRIALS

RULE 38.1

RANDOM SELECTION OF GRAND AND PETIT JURORS

The selection of grand and *petit* jurors shall be as prescribed in this rule:

(a) Places for Holding Court and Designation of Counties. The counties designated as constituting each jury division are as follows:

(1) Kansas City - Leavenworth Division. Atchison, Doniphan, Douglas, Franklin, Johnson, Leavenworth, Miami and Wyandotte.

(2) Fort Scott Division. Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Elk, Greenwood, Labette, Linn, Montgomery, Neosho, Wilson and Woodson.

(3) Topeka Division. Brown, Chase, Clay, Dickinson, Geary, Jackson, Jefferson, Lyon, Marshall, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Wabaunsee and Washington.

(4) Wichita - Hutchinson Division. Butler, Cowley, Harper, Harvey, Kingman, Marion, McPherson, Reno, Rice, Sedgwick and Sumner.

(5) Dodge City Division. Barber, Barton, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearney, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Stafford, Stanton, Stevens and Wichita.

(6) Salina Division. Cheyenne, Cloud, Decatur, Ellis, Ellsworth, Gove, Graham, Jewell, Lincoln, Logan, Mitchell, Norton, Osborne, Ottawa, Phillips, Rawlins, Republic, Rooks, Russell, Saline, Sherman, Sheridan, Smith, Thomas, Trego and Wallace.

(b) Applicability. This rule, except as otherwise provided, shall apply separately to each division designated herein.

(c) Management of the Jury Selection Process. Pursuant to subparagraph (b)(1) of Section 1863, Title 28, United States Code, the clerk is hereby authorized to manage the jury selection process in the District of Kansas. The clerk shall act under the general supervision and control of the chief judge of the court.

Pursuant to the provisions of Section 1863(a), Title 28, United States Code, the court may authorize other persons to assist the clerk in the jury selection process.

The clerk shall keep one book for the entire district known as the "Jury Selection Journal" and shall enter chronologically therein each order of the court pursuant to this rule and a minute entry of each act performed by him under the provisions of this rule.

(d) Source of Names. The names of prospective grand and petit jurors shall be selected at random from the official lists of registered voters in each of the counties comprising the divisions herein designated. The names selected shall be assigned serial numbers by division as determined by the clerk. A record shall be maintained by the clerk of the names and numbers assigned to each name.

(e) Name Selection Procedures. At the clerk's option, and after consultation with the court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the clerk and after consultation with the court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. '1863(b)(3). The selections of names from the source list, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

(f) Master Jury Wheel. Each jury division shall be provided with a master jury wheel into which the names of those selected from the voter registration lists under this rule shall be proportionately placed by the clerk.

The minimum number of names to be placed initially in each master jury wheel shall be as follows:

(1) Kansas City - Leavenworth Division: Seven thousand five hundred (7,500) names.
(2) Salina Division: One thousand (1,000) names.
(3) Topeka Division: Five thousand (5,000) names.
(4) Wichita - Hutchinson Division: Seven thousand (7,000) names.
(5) Dodge City Division: One thousand (1,000) names.
(6) Fort Scott Division: One thousand (1,000) names.

The chief judge may order additional names to be placed in the master jury wheel as necessary. The additional names shall be selected as provided in subsection (e) of this rule.

The master jury wheel shall be emptied and refilled every two years.

(g) Drawing of Names from the Master Jury Wheel and Completion of Qualification Form. From time to time, as directed by the court, the clerk shall publicly draw at random from each divisional master jury wheel, either manually or by use of a properly programmed data computer, the names or numbers of as many persons as may be required for jury service. Whenever a divisional master jury wheel is maintained on a data computer, the names to be drawn from said wheel shall be selected by using the quotient-starting number formula, as directed by the court. The clerk may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except upon order of the court, and except as required by Section 1867 and Section 1868, Title 28, United States Code. Upon drawing names or numbers from a divisional master jury wheel, the clerk shall mail to every person whose name or number is drawn from said wheel a jury qualification form (as defined in paragraph (h) of Section 1869, Title 28, United States Code), to fill out and return the form, duly signed and sworn, to the clerk by mail within ten days. If it appears that there is an omission, ambiguity or error in a filled out and returned qualification form, the clerk may return the form with instructions to the person to make such additions and corrections as may be necessary and to return the form to the clerk within ten days.

(h) Qualified Jury Wheel. A qualified jury wheel shall be maintained for each division of the court by the clerk. Into each divisional qualified jury wheel the clerk shall place the names of all persons previously drawn from the divisional master jury wheels, in accordance with subsection (g) of this rule, who have been determined to be qualified as jurors and not exempt or excused pursuant to the provisions of this rule.

From time to time, at the direction of any active judge of this district, the clerk shall publicly draw at random from a divisional qualified jury wheel, either manually or by use of a properly programmed data computer, as many names or numbers of persons as may be required for assignment to grand and petit jury panels.

Whenever a divisional qualified jury wheel is maintained on a data computer, the names to be drawn from said wheel shall be selected by using the "quotient-starting number" formula, as directed by the court. The clerk shall prepare or cause to be prepared a separate alphabetical list of names of all persons so drawn and assigned to each grand and petit jury panel.

When the court orders a grand or petit jury to be drawn, the clerk shall issue a summons for the required number of jurors. Persons drawn for jury service may, in accordance with Section 1866(b), be served personally or by mail addressed to such persons at their usual residence or business address.

The names of petit jurors drawn from the qualified jury wheel may, if requested, be disclosed to the parties and to the public on the day following the drawing upon request of any party or member of the public; provided, however, the court in which any of the prospective jurors concerned are expected to serve, may, by special order, require that the clerk keep these names confidential where the interests of justice so require.

The names of grand jurors drawn from the qualified jury wheel shall not be maintained in any public record or otherwise disclosed to the public, except upon the order of the district judge in charge of the grand jury on a showing that exceptional circumstances have created a demonstrated need for disclosure.

In assigning prospective jurors to petit jury panels or to panels to be assigned to the bankruptcy court, the clerk shall place the names or numbers of available petit jurors drawn from the divisional qualified jury wheel, as provided in this rule, and who are not excused, in a courtroom jury wheel, and thereafter such necessary names shall be drawn therefrom at random by the clerk and assigned to particular panels for each jury case as directed by the court.

Separate grand jury panels as may be required for service at the places in the district where court is held shall be publicly drawn at random as ordered by the court, either manually or by use of a programmed data computer, or by a combination thereof, from the qualified jury wheels on a divisional basis as follows:

(1) At Kansas City, Leavenworth and Fort Scott: From the Kansas City - Leavenworth and Fort Scott jury wheels.

(2) At Topeka and Salina: From the Topeka and Salina jury wheels.

(3) At Wichita, Hutchinson and Dodge City: From the Wichita - Hutchinson and Dodge City jury wheels.

The required number of names for each centralized grand jury panel shall be taken at random from the qualified jury wheels in proportion as nearly as possible to the number of registered voters in each division every two years. For example, if the total number of registered voters in the Kansas City - Leavenworth and Fort Scott jury divisions was 150,000 and 90,000, respectively, and if 48 prospective jurors were to be summoned for grand jury service at Kansas City, Leavenworth or Fort Scott, then 30 names should be selected at random from the Kansas City - Leavenworth qualified jury wheel and 18 names from Fort Scott's qualified wheel.

The clerk shall issue summonses for the required number of jurors to be called to be served personally or by mail addressed to their usual residence or business address.

(i) Disqualification or Exemption from Jury Service. Pursuant to paragraph (a), Section 1865, Title 28, United States Code, the chief judge or clerk of this court, or, in his or her absence, any other district court judge shall determine whether a prospective grand or petit juror is unqualified for, or exempt, or to be excused from jury service. The judge or clerk will make the determination from information provided on the juror qualification form and other competent evidence. The clerk shall enter such determination in the space provided on the juror qualification form and on the alphabetical list of names drawn from a divisional master jury wheel.

(1) Pursuant to paragraph (b) of Section 1865, Title 28, United States Code, any person shall be determined to be qualified to serve on either grand or petit juries in the district court unless he or she:

(A) Is not a citizen of the United States 18 years of age who has resided for a period of one year within the judicial district;

(B) Is unable to read, write and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(C) Is unable to speak the English language;

(D) Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service;

(E) Has a charge pending against him for the commission of, or has been convicted in a state or federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored;

(2) Pursuant to paragraph (b) of Section 1863, Title 28, United States Code, the following persons shall be exempt from jury service:

(A) Members in active service in the Armed Forces of the United States;

(B) Members of the fire or police departments of any state, district, territory, possession, or subdivision thereof; and

(C) Public officers in the executive, legislative or judicial branches of the government of the United States, or any state, district, territory or possession or subdivision thereof, who are actively engaged in the performance of official duties.

(j) Individual Excuse from Jury Service. In addition to the members of groups and classes subject to excuse from jury service on request, as provided in subsection (i) of this rule, any person summoned for jury service may be excused by the court, or the clerk under the supervision of the court upon a showing of undue hardship or extreme inconvenience, or both, pursuant to paragraph (c) of Section 1866, Title 28, United States Code. The names of excused persons are to be reinserted into the qualified jury wheel.

Whenever a person is excused for reason of undue hardship or extreme inconvenience, the clerk shall note the reason for the excuse in the space provided on the jury qualification form or on the alphabetical list of names drawn from the divisional qualified jury wheel.

(k) Groups and Classes, Members of Which are Subject to Excuse on Request. Pursuant to paragraph (b)(5) of Section 1863, Title 28, United States Code, and by the adoption of this rule, it is hereby found that jury service by the following groups of persons and occupational classes of persons would entail undue hardship or extreme inconvenience to the members thereof and that the excuse from jury service of the members thereof on request would not be inconsistent with Section 1861 and Section 1862, Title 28, United States Code:

(1) Persons over 70 years of age.

(2) Persons who have, within the past two years, served on a federal grand or petit jury.

(3) Persons having active care and custody of a child or children under ten years of age whose health and/or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirm persons.

(4) Any person whose services are so essential to the operation of a business, commercial or agricultural enterprise that said enterprise must close if such person were required to perform jury duty.

(5) Persons in professional occupations, such as doctors, attorneys, dentists, registered nurses, members of clergy or of a religious order.

(6) Volunteer safety personnel if they serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency." "Public agency" for this purpose means the United States, any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or other territory of the United States, "or any unit of local government, department, or instrumentality of any of the foregoing."

(l) Maintenance and Inspection of Records. After any master jury wheel is emptied and refilled as provided in this rule, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all of the records and papers compiled and maintained by the clerk before the master wheel was emptied shall be preserved in the custody of the clerk and available for public inspection for at least two years, and thereafter shall not be destroyed except by order of the court.

* * *

NOTE: Rule 38.1 is a mandated rule.
As amended 4/8/99, 2/28/97, 3/13/92.
Renumbered 6/95. Formerly Rule 125.

RULE 39.1

JURY TRIALS

(a) Order and Length of Oral Argument. At trial, the party having the burden of proof shall have the right to open and close the jury argument without regard to whether the defendant has offered evidence. If each of the parties has the burden of proof on one or more issues, the court, in its discretion, shall determine the order of arguments. All arguments shall be subject to such time limitations as may be imposed by the court.

(b) Proposed Jury Instructions. Except for isolated instructions whose need could not have been foreseen, all proposed jury instructions must be filed and served prior to trial. Jury instructions are to be submitted in the following format:

(1) The parties are required to jointly submit one set of agreed instructions. To this end the parties must serve their proposed instructions upon each other, then meet, confer, and submit one complete set of agreed instructions.

(2) If the parties cannot agree upon one complete set of instructions, they are required to submit one set of those instructions that have been agreed, and each party shall submit a supplemental set of instructions which are not agreed.

(3) It is not sufficient that the parties merely agree upon general instructions, and then each submit their own set of substantive instructions. The parties are expected to meet, confer, and agree upon the substantive instructions for the case, if possible.

(4) Each proposed instruction should indicate the number of the proposed instruction and the authority supporting the instruction.

(5) In addition to written format, jury instructions shall be submitted on 3.5" high-density diskette, labeled with case caption, case number and document number. The court utilizes WordPerfect 7.0 and 9.0.

(6) Instructions not requested as set forth above and not timely filed shall be deemed to have been not properly requested within the meaning of Fed.R.Civ.P. 51, and may be deemed waived unless the subject of the request is one arising in the course of trial which could not have been anticipated prior to trial from the pleadings, discovery or nature of the case.

(7) The failure to timely file objections, consistent with the pretrial order, may constitute a waiver of such objection.

(8) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper, will not be given, and should not be submitted.

(9) Any modifications of instructions from statutory authority, Devitt and Blackmar, PIK, or other form instructions must specifically state the modification made to the original form instruction, along with the authority supporting the modification.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 122(a).

RULE 39.2

TRIALS TO THE COURT

(a) Proposed Findings of Fact and Conclusions of Law. Plaintiff's proposed findings of fact shall be organized as follows: Plaintiff's statement of facts shall set forth in simple declarative sentences all the facts relied on in support of plaintiff's claim for relief. The proposed findings shall be constructed in consecutively numbered paragraphs so that each opposing party may specifically admit or deny each proposed finding. Each finding shall reference in parenthesis the supporting trial exhibit and/or pages in the trial transcript.

Plaintiff's statement of legal conclusions shall set forth all conclusions necessary to demonstrate liability. Such conclusions shall be separately numbered and clearly and concisely stated in consecutively numbered paragraphs, with one proposed conclusion per page. Each proposed conclusion shall include a supporting citation to legal authority.

Defendant shall prepare its proposed findings and conclusions in the manner described above. In addition to its own proposed findings and conclusions, defendant shall put its response to plaintiff's proposed findings and conclusions. Each response shall bear the same number as the proposed finding or conclusion to which it is addressed.

(b) As used in Rule 39.2(a), the term Aplaintiff@ includes plaintiffs as well as counterclaimants, crossclaimants, intervenors and any other parties who assert affirmative claims for relief. The term Adefendant@ includes defendants as well as counterclaim defendants, crossclaim defendants and any other parties who are defending against affirmative claims for relief.

* * *

New rule, adopted 9/00.

RULE 40.1

ASSIGNMENT OF CASES

The business of the court and the assignment of cases to the judges is the responsibility of the chief judge. In the interest of justice or to further the efficient disposition of the business of the court, a judge may return a case to the clerk for reassignment or, with the approval of the chief judge, may transfer the case to another judge who consents to such transfer.

* * *

Renumbered 6/95. Formerly Rule 104.

RULE 40.2

DETERMINATION OF PLACE OF TRIAL

The plaintiff, at the time of filing the complaint, shall file a request showing the name of the city where it desires the trial to be held. Such request for place of trial shall govern as to the location of the record office where the case shall be filed, docketed and maintained unless otherwise ordered by the court. If the requested location of the place of trial is one where there is no record office of the court, the case shall be docketed and maintained at the record office of the court where the case is filed, unless otherwise ordered by the court. The removing party, at the time of filing the notice of removal as set forth in Local Rule 81.1(b), shall also file a designation of place of trial. A sufficient number of copies of the request for place of trial shall be filed to enable service of it to be made upon all parties.

Each defendant, at the time it files its first pleading, and the plaintiff, in a removed action, within ten days after notice of the removal, shall file a request showing the name of the city where it desires the trial to be held. Unless otherwise ordered by the court, such request shall be served upon each party affected thereby.

The court shall not be bound by the requests for place of trial but may, upon motion by a party, or in its discretion determine the place of trial.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 205.

RULE 40.3

SETTLEMENT OF CASES SET FOR TRIAL

The parties shall immediately notify the court of an agreement reached by the parties which resolves the litigation as to any or all parties. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of by agreement in advance of the trial date, except for good cause shown, jury costs paid or incurred shall be assessed equally against the parties and their attorneys or otherwise assessed as directed by the court. Jury costs include attendance fees, per diem, mileage and parking. No jury costs will be assessed if notice of settlement or disposition of the case is given to the jury section of the clerk's office at least one full business day prior to the scheduled trial date.

* * *

Renumbered 6/95. Formerly Rule 217.

RULE 41.1

DISMISSAL FOR LACK OF PROSECUTION

The court may at any time issue an order to show cause why a case should not be dismissed for lack of prosecution, and if good cause is not shown within the time prescribed by the show cause order, the court may enter an order of dismissal which shall be with prejudice unless the court otherwise specifies.

* * *

Renumbered 6/95. Formerly Rule 215.

RULE 47.1

COMMUNICATION WITH JURORS AFTER TRIAL

(a) No juror has any obligation to speak to any person about any case and may refuse all interviews or comments. No person may make repeated requests for interviews or comments after a juror has expressed his or her desire not to be interviewed or questioned.

(b) Under no circumstances except by order of the court in its discretion, and under such terms and conditions as it shall establish, shall any party or any party's attorney or their agents or employees examine or interview any juror, either orally or in writing, nor shall any juror consenting to be interviewed disclose any information with respect to the specific vote of any juror other than the juror being interviewed, or the deliberations of the jury.

(c) At the time that a jury is discharged from further consideration of a case upon the return of a verdict, the declaration of a mistrial or otherwise, and when jurors (including alternates) are excused after commencement of a trial, the court shall advise all jurors so discharged or excused of the provisions of this rule.

* * *

As amended 6/18/97, 10/6/87.
Renumbered 6/95. Formerly Rule 123.

RULE 51.1

REQUESTS FOR JURY INSTRUCTIONS

An original and one copy of requested instructions to the jury shall be filed with the clerk, and a copy served upon each party at the opening of the trial, before the taking of evidence. The court may receive additional requests relating to questions arising during the trial at any time prior to the arguments. Each requested instruction shall, as far as possible, embrace a single legal proposition. Each instruction shall be numbered and written on a separate page, together with a citation of authorities supporting the proposition of law stated in the requested instruction. Each requested instruction shall identify the party submitting it.

* * *

Renumbered 6/95. Formerly Rule 122(b).

- VII -

JUDGMENT

RULE 54.1

TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. The party entitled to recover costs shall file a bill of costs on a form provided by the clerk within 30 days (a) after the expiration of time allowed for appeal of a final judgment or decree, or (b) after receipt by the clerk of an order terminating the action on appeal. The clerk's action may be reviewed by the court if a motion to retax the costs is filed within five days after taxation by the clerk. The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.

(b) To Whom Payable. Unless otherwise ordered by the court, except in criminal cases, suits for civil penalties for violations of criminal statutes, and government cases not handled by the Department of Justice, all costs taxed are payable directly to the party entitled thereto and not to the clerk.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 219.

RULE 54.2

AWARD OF STATUTORY ATTORNEY'S FEES

The court will not consider a motion to award statutory attorney's fees made pursuant to Fed.R.Civ.P. 54(d)(2) until the moving party shall have first advised the court in writing that after consultation promptly initiated by the moving party, the parties have been unable to reach an agreement with regard to the fee award. The statement of consultation shall set forth the date of the consultation, the names of those who participated, and the specific results achieved.

If the parties reach an agreement, they shall file an appropriate stipulation and request for an order. If they are unable to agree, within 30 days of the filing of the motion under Fed.R.Civ.P. 54(d)(2), the moving party shall file the statement of consultation required by this rule and a memorandum setting forth the factual basis for each criterion which the court is asked to consider in making an award. Other parties shall have 10 days in which to file a response to the memorandum. The memorandum shall be supported by time records, affidavits, or other evidence. The memorandum in support of a motion required by D. Kan. Rule 7.1(b) need not be filed at the time the Fed.R.Civ.P. 54(d)(2) motion is filed. Discovery shall not be conducted in connection with motions for awards of attorney's fees unless permitted by the court upon motion and for good cause shown.

* * *

Renumbered 6/95. Formerly Rule 220.

RULE 56.1

MOTIONS FOR SUMMARY JUDGMENT

(a) Supporting Memorandum. The memorandum or brief in support of a motion for summary judgment shall begin with a section that contains a concise statement of material facts as to which the movant contends no genuine issue exists. The facts shall be numbered and shall refer with particularity to those portions of the record upon which movant relies. All material facts set forth in the statement of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party.

(b) Opposing Memorandum.

(1) A memorandum in opposition to a motion for summary judgment shall begin with a section that contains a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute shall be numbered by paragraph, shall refer with particularity to those portions of the record upon which the opposing party relies, and, if applicable, shall state the number of movant's fact that is disputed.

(2) If the party opposing summary judgment relies on any facts not contained in movant's memorandum, that party shall set forth each additional fact in a separately numbered paragraph, supported by references to the record, in the manner required by subsection (a), above. All material facts set forth in this statement of the non-moving party shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the reply of the moving party.

(c) Reply Memorandum. In a reply brief, the moving party shall respond to the non-moving party's statement of undisputed material facts in the manner prescribed in subsection (b)(1).

(d) Presentation of Factual Material. All facts on which a motion or opposition is based shall be presented by affidavit, declaration under penalty of perjury, and/or relevant portions of pleadings, depositions, answers to interrogatories and responses to requests for admissions. Affidavits or declarations shall be made on personal knowledge and by a person competent to testify to the facts stated which shall be admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document shall be attached.

(e) Duty to Fairly Meet the Substance of the Matter Asserted. If the responding party cannot truthfully admit or deny the factual matter asserted, the response shall specifically set forth in detail the reasons why. All responses shall fairly meet the substance of the matter asserted.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 206(c).

RULE 58.1

JOURNAL ENTRIES AND ORDERS

In all cases where the court directs that a judgment be settled by journal entry pursuant to Fed.R.Civ.P. 58, it shall be prepared in accordance with the directions of the court. Counsel preparing the journal entry shall, within ten days, unless another time is specifically directed by the court, serve copies thereof on all other counsel involved who shall, within ten days after service is made, serve on the counsel preparing said journal entry any objections in writing. At the expiration of the time for serving objections, counsel preparing said journal entry shall submit the original, together with any objections received, to the court for approval. If counsel cannot agree as to the form of the journal entry, the court shall settle the journal entry.

* * *

Renumbered 6/95. Formerly Rule 218.

RULE 62.1

MANDATES OF AN APPELLATE COURT

Whenever an appellate court has remanded a case to this court, and further proceedings are required, the case shall be referred for such further proceedings to the judge who heard the case, unless the appellate court has otherwise directed. Any other order or mandate of an appellate court, when filed in the office of the clerk of this court, shall automatically become the order or judgment of this court and be entered as such by the clerk without further order.

* * *

Renumbered 6/95. Formerly Rule 124.

RULE 62.2

SUPERSEDEAS BONDS

A supersedeas bond staying execution of a money judgment shall, unless the court otherwise directs, be in the amount of the judgment, plus 25% of that amount to cover interest and any award of damages for delay.

* * *

Renumbered 6/95. Formerly Rule 221.

- VIII -

PROVISIONAL AND FINAL REMEDIES

RULE 65.1

RESTRAINING ORDERS AND TEMPORARY INJUNCTIONS

A prayer for a temporary injunction or restraining order set forth in a pleading is not sufficient to bring the issue before the court prior to trial. If a ruling before trial is desired, it shall be sought by separate motion.

* * *

Renumbered 6/95. Formerly Rule 212.

RULE 65.2

SURETIES

(a) Certain Persons Prohibited. No clerk or other court supporting personnel or any practicing attorney shall be accepted as surety on any bond or undertaking in any action or proceeding in this court.

(b) Security. Unless otherwise directed by the court, every bond or undertaking shall be secured by (1) a cash deposit equal to the amount of the bond; or (2) a corporation authorized to execute bonds under 31 U.S.C. '' 9304-08; or (3) an individual residing in the District of Kansas owning sufficient unencumbered real or personal property within the district above all homestead and exemption rights and all obligations as surety, to insure the payment of the amount of the bond and all costs incident to collecting the same.

(c) Infants or Incompetent Persons. In all cases where an infant or an incompetent person has sued and recovered by and through a representative, the bond to be made by the representative shall, unless otherwise ordered by the court, be treated in all respects as provided by the existing laws of the State of Kansas with respect to the bond of such representative.

* * *

Renumbered 6/95. Formerly Rule 119.

RULE 66.1

ADMINISTRATION OF ESTATES

(a) Authority for Rule. This rule is promulgated in the exercise of the authority granted to district courts by the provisions of Fed.R.Civ.P. 66 and shall apply to the practice in the administration of estates by receivers or by other similar officers appointed by the court.

(b) Inventory by Receivers. Unless otherwise ordered, a receiver, or other similar officer appointed by the court, shall as soon as practicable after appointment, but in any event not later than 30 days thereafter, file an inventory of all property of which he has taken possession or control, as well as of any that he has not been able to reduce to possession and control, together with a list of the then known liabilities of the estate, and a report explaining such inventory.

(c) Accountings of Receivers. From time to time thereafter, at intervals of six months or as otherwise ordered, a receiver shall file a current report and account of his receipts and disbursements and of his acts as such officer.

(d) Administration of Estates. The administration of estates by receivers or other officers shall, in all other respects, follow as nearly as may be possible the procedure in bankruptcy cases, except that the allowance of compensation of receivers or similar officers or their counsel and all those who may have been appointed by the court to aid in the administration of the estate shall be ascertained and awarded by the court in its discretion and in such manner as it may direct.

* * *

Renumbered 6/95. Formerly Rule 501.

RULE 67.1

REGISTRY FUNDS

(a) Orders Pursuant to Fed.R.Civ.P. 67. It shall be the responsibility of any party seeking an order of the court for the deposit of funds pursuant to Fed.R.Civ.P. 67 to prepare such an order for the signature of the court, and to serve the same upon the clerk of this court. It is suggested that parties utilize forms of proposed motions and orders which are maintained and available at each record office of the court for this purpose.

(b) Deposit in Non-Income-Earning Account. Unless otherwise ordered by the court, the clerk shall deposit registry funds in a non-income-earning account.

(c) Investment in Income-Earning Account. Upon motion the court may order the clerk to invest certain registry funds in an income-earning account. The motion and any order prepared for the court's signature pursuant to this rule directing investment in an income-earning account shall provide for an investment that will be in compliance with applicable provisions of the law regulating the investment of public monies, shall provide for proper disposition of future earnings, and shall set out with particularity the following:

(1) The form of deposit;

(2) The amount to be invested;

(3) The type of investment to be made by the clerk of the court; i.e., passbook savings, insured money fund, certificate of deposit, etc.;

(4) The name and address of the private institution where the deposit is to be made;

(5) The rate of interest at which the deposit is to be made, if possible;

(6) The length of time the money should be invested, whether it should be automatically reinvested, etc., keeping in the mind that some investments include a penalty for early withdrawal;

(7) The name and address of the designated beneficiary or beneficiaries;

(8) The form of additional collateral to be posted by the private institution in the event that the standard F.D.I.C. or F.S.L.I.C. coverage is insufficient to insure the total amount of deposit; and

(9) Such other information that may be deemed appropriate under the facts and circumstances of the particular case.

(d) Disbursements from Income-Earning Account.

(1) All funds deposited in an income-earning account on or after December 1, 1990, will be assessed a charge of 10 percent of the income earned regardless of the nature of the case underlying the investment.

(2) All motion and/or orders for disbursements of earned income from invested accounts must provide the name, address, and Social Security Number or Employer's Identification Number of the payee to facilitate the preparation of Internal Revenue Service FORM 1099-MISC. Disbursements of funds from an income-earning account will not be made until such information is provided to the clerk of this court.

* * *

As amended 3/13/92
Renumbered 6/95. Formerly Rule 126.

- IX -

SPECIAL PROCEEDINGS; MAGISTRATE JUDGES

RULE 71A.1

CONDEMNATION ACTIONS

When the United States files separate condemnation actions and a single declaration of taking relating to those separate actions, the clerk is authorized to establish a master file in which the declaration of taking may be filed, and the filing of the declaration of taking therein shall constitute a filing of the same in each of the actions to which it relates.

* * *

Renumbered 6/95. Formerly Rule 502.

RULE 72.1.1

AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(a) Duties Under 28 U.S.C. ' 636(a). Each full time United States Magistrate Judge of the court is authorized to perform the duties prescribed by 28 U.S.C. ' 636(a), and may:

(1) Exercise all of the powers and duties conferred or imposed upon United States Commissioners by law and by the Federal Rules of Criminal Procedure.

(2) Administer oaths and affirmations, and take acknowledgments, affidavits, and depositions.

(3) Order that arrested persons be released or detained pending judicial proceedings pursuant to the provisions of 18 U.S.C. ' 3141, et seq.

(4) Conduct extradition proceedings in accordance with 18 U.S.C. ' 3184.

(b) Disposition of Misdemeanor Cases. A magistrate judge may:

(1) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. ' 3401;

(2) Direct the probation service of the court to conduct a presentence investigation in any misdemeanor case; and

(3) Conduct jury trials in misdemeanor cases where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(c) Determination of Nondispositive Pretrial Matters. In accordance with 28 U.S.C. ' 636(b)(1)(A), a magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a civil or criminal case, other than the motions which are specified in subsection (d) of this rule. A magistrate judge is also authorized to conduct such hearings and conferences and to issue such orders as are provided for by Fed.R.Civ.P. 16.

(d) Recommendations Regarding Case-Dispositive Motions. In accordance with the provisions of 28 U.S.C. ' 636(b)(1)(B), a magistrate judge may submit to a judge of the court a report containing proposed findings of fact and recommendations for disposition by the judge of the following pretrial motions in civil and criminal cases:

(1) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(2) Motions for judgment on the pleadings;

(3) Motions for summary judgment;

(4) Motions to dismiss or permit the maintenance of a class action;

(5) Motions to dismiss for failure to state a claim upon which relief may be granted;

(6) Motions to involuntarily dismiss an action;

(7) Motions for review of default judgment;

(8) Motions to dismiss or quash an indictment or information made by a defendant; and

(9) Motions to suppress evidence in a criminal case.

A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearings or other proceedings arising in the exercise of the authority conferred by this subsection.

(e) Prisoner Cases Under 28 U.S.C. ' ' 2241, 2254 and 2255. A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States District Courts under 28 U.S.C. ' ' 2241, 2254 and 2255. A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. When specifically designated by a judge of the court and upon the consent of the parties, a

magistrate judge may conduct any or all proceedings in such cases and may order the entry of a final judgment, in accordance with 28 U.S.C. ' 636(c).

(f) Prisoner Cases Under 42 U.S.C. ' 1983 and Bivens Cases. A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding, and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners pursuant to 42 U.S.C. ' 1983 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 402 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d (1971). When specifically designated by a judge of the court and upon the consent of the parties, a magistrate judge may conduct any or all proceedings in such cases, including the conduct of a jury or nonjury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. ' 636(c).

(g) Special Master References. A magistrate judge may be designated by a judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. ' 636(b)(2) and Fed.R.Civ.P. 53. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case, notwithstanding the limitations of Fed.R.Civ.P. 53(b).

(h) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties. When specifically designated by a judge of the court and upon the consent of the parties, a full time magistrate judge may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or nonjury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. ' 636(c). In the course of conducting such proceedings upon consent of the parties, a magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions.

(i) Authority to Perform Additional Duties. Pursuant to 28 U.S.C. ' 636(b)(3), magistrate judges are to perform additional functions and duties, including the following:

(1) To conduct scheduling conferences; pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases.

(2) To conduct calendar and status calls for civil and criminal calendars, and determine motions to expedite or postpone the trial of cases.

(3) To conduct arraignments in cases not triable by the magistrate judge to the extent of taking a not guilty plea or noting a defendant=s intention to plead guilty or *nolo contendere* and ordering a presentence report in appropriate cases.

(4) To receive grand jury returns in accordance with Fed.R.Crim.P. 6(f).

(5) To accept waivers of indictments pursuant to Fed.R.Crim.P. 7(b).

(6) To conduct *voir dire* and select petit juries for the court.

(7) To accept petit jury verdicts in civil cases in the absence of a judge.

(8) To conduct necessary proceedings leading to the potential revocation of probation.

(9) To issue subpoenas, writs of *habeas corpus ad testificandum* or *habeas corpus ad prosequendum*, or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.

(10) To order the exoneration of forfeiture of bonds.

(11) To conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under the Federal Boat Safety Act of 1971 in accordance with 46 U.S.C. ' 1484(d).

(12) To conduct examinations of judgment debtors in accordance with Fed.R.Civ.P. 69.

(13) To conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act.

(14) To perform the functions specified in 18 U.S.C. '' 4107, 4108, and 4109 regarding proceedings for verification of appointment of counsel therein.

(15) To conduct such hearings as are necessary or appropriate, and submit to a judge proposed findings of fact and recommendations for disposition of applications for judgment by default pursuant to Fed.R.Civ.P. 55(b), or motions to set aside judgments by default pursuant to Fed.R.Civ.P. 55(c).

(16) To require compliance with local rules with regard to *pro se* petitions under 42 U.S.C. ' 1983, and to enter orders appointment counsel in civil rights cases.

(17) To perform any additional duty which is not inconsistent with the Constitution and laws of the United States.

(j) Part-time United States Magistrate Judges. Part-time United States Magistrate Judges are hereby authorized in accordance with the provision of 28 U.S.C. 636 to perform all duties not otherwise prohibited by law, including but not limited to the following:

(1) to issue summonses, warrants and search warrants; to conduct proceedings under Fed. R. Crim. P. 5 and 32.1; appoint counsel; and conduct proceedings under 18 U.S.C. ' 3141, *et seq.*, all as provided by the Federal Rules of Criminal Procedure;

(2) to hear and dispose of misdemeanor and petty offenses as provided by 18 U.S.C. ' 3401, in accordance with the provisions of Fed. R. Crim. P. 58 and in such cases to direct the probation service of the court to conduct a presentence investigation;

(3) to perform the duties set forth in '' (e), (f), and (i) of this rule;

(4) to conduct settlement conferences pursuant to D.Kan.Rule 16.3;

(5) to appoint counsel in civil rights and habeas cases referred to such magistrate judge;

(6) to administer oaths and affirmations, and take acknowledgments, affidavits, and depositions;

(7) to perform such further duties as may be referred by a judge of the court in accordance with the provisions of 28 U.S.C. 636.

When a jury trial is requested in a misdemeanor case, such case shall be transferred to a full time magistrate judge sitting in Kansas City, Topeka, or Wichita. The docket sheet and original file in such cases shall be forwarded promptly to the appropriate magistrate judge.

* * *

As amended 9/00; 10/22/98; 2/27/98; 2/2/95.

RULE 72.1.2

ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

(a) Criminal Cases.

(1) Misdemeanor Cases. All misdemeanor cases shall be assigned upon the filing of an information, complaint or violation notice or the return of an indictment to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. ' 3401 and the rules of procedure for the trial of misdemeanors.

(2) Felony Cases. Upon the return of an indictment or the filing of an information or complaint, all felony cases shall be assigned to a magistrate judge for proceedings pursuant to Fed.R.Crim.P. 5, the conduct of an arraignment, acceptance of waivers of indictment pursuant to Fed.R.Crim.P. 7(b), and such pretrial conferences including omnibus hearings as are necessary, and for the hearing and determination of all pretrial procedural and discovery motions.

(b) Civil Cases. Civil cases shall be assigned by the clerk of the court to a magistrate judge or judge for the conduct of a Fed.R.Civ.P. 16(b) scheduling conference, the issuance of a scheduling order, and such other pretrial conferences as are necessary and appropriate, and for the hearing and determination of all pretrial, procedural and discovery motions. Where the parties consent to the trial and disposition of a case by a magistrate judge under Local Rule 72.1.3, such case shall, with the approval of the judge to whom it was assigned at the time of filing, be re-assigned to a magistrate judge for the conduct of all further proceedings and the entry of judgment.

(c) Reservation of Proceedings by Judges. Nothing in these rules shall preclude a judge from reserving any proceedings for conduct by a judge, rather than by a magistrate judge.

* * *

Renumbered 6/95. Formerly Rule 602.

RULE 72.1.3

CONSENT TO CIVIL TRIAL JURISDICTION

(a) Consent to Exercise of Civil Trial Jurisdiction.

(1) The consent of a party to the exercise of civil trial jurisdiction authorized in 28 U.S.C. ' 636(c)(1) may be communicated to the clerk by a form provided by the clerk which shall be signed by the party or his or her attorney. The clerk shall notify the parties in civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be handed or mailed to the plaintiff or his or her representative at the time an action is filed and to other parties as attachment to copies of the complaint and summons, when served. Additional notices may be furnished to the parties at later stages of the case, and may be included with pretrial notices and instructions.

(2) A judge or magistrate judge shall not be informed of a party's response to the clerk's notification unless all parties have consented to the reference to a magistrate judge.

(3) The consent shall be filed with the clerk prior to the time of trial.

(b) Reference by the Court. After the consent form has been executed and filed, the clerk shall transmit it to the judge to whom the case has been assigned for approval and reference of the case to a magistrate judge.

(c) Withdrawal of Consent. After a case has been referred, consent of the parties to the exercise of a magistrate judge's jurisdiction may not be withdrawn without the approval of the court.

* * *

As amended 2/2/95.
Renumbered 6/95. Formerly Rule 603.

RULE 72.1.4

OBJECTIONS; APPEALS; STAY OF MAGISTRATE JUDGE'S ORDERS

(a) Objections to Magistrate Judge's Order. The procedure for filing objections to an order of a magistrate in a nondispositive matter shall be as set forth in Fed.R.Civ.P. 72(a). Such objections shall be made by filing a motion to review the order in question.

(b) Objections to Magistrate Judge's Recommendation. The procedure for filing objections to the recommendation of a magistrate judge on a dispositive or other matter shall be as set forth in Fed.R.Civ.P. 72(b).

(c) Appeal from Judgment. The procedure for appeal from a judgment in an action tried by consent to a magistrate judge shall be as set forth in Fed.R.Civ.P. 73 through 76.

(d) Application for Stay of Magistrate Judge's Order. Application for stay of a magistrate judge's order pending review of objections made thereto shall first be made to the magistrate judge.

(e) Application in Criminal Cases. In criminal cases, motions for review by a district judge, of an order entered by a magistrate judge shall be filed within 10 days of the filing of the order for which review is sought.

* * *

As amended 6/18/97
Renumbered 6/95. Formerly Rule 604.

RULE 72.1.5

SCHEDULING OF CRIMINAL MATTERS

(a) The United States Magistrate Judges stationed at Wichita shall regularly schedule criminal matters on Wednesday of each week; the United States Magistrate Judge stationed at Topeka shall regularly schedule criminal matters on Tuesday of each week; and the United States Magistrate Judge stationed at Kansas City shall regularly schedule criminal matters on Thursday of each week.

(b) The magistrate judge assigned shall regularly schedule criminal matters at Ft. Riley, Kansas, on the first and third Thursdays of each month.

(c) The magistrate judge assigned shall regularly schedule criminal matters at Leavenworth, Kansas, on the second Wednesday of each month.

* * *

As amended 11/13/97, 2/2/95.
Renumbered 6/95. Formerly Rule 605.

- X -

DISTRICT COURT AND CLERK

RULE 77.1

RECORD OFFICES; FILING OF PLEADINGS AND PAPERS

(a) Record Offices. The record offices of the court are located at Topeka, Wichita and Kansas City, Kansas. The offices of the clerk of the court at those locations shall be open from 9:00 a.m. to 4:30 p.m. on all days except Saturdays, Sundays and federal legal holidays. In cases of emergency or other exigent circumstances a district judge may order the closing of the record office of the court at such judge's duty station with provision being made for the filing of pleadings and papers.

(b) Filing of Pleadings and Papers. Pleadings and other papers shall be filed at one of the record offices, or under extraordinary circumstances, may be filed with a judge or magistrate judge under the provisions of Fed.R.Civ.P. 5(e). Each record office of the court is to maintain a depository for the filing of pleadings and papers which shall be accessible 24 hours each day.

(c) FAX Filing. Where compelling circumstances exist, the clerk is authorized to accept for filing papers transmitted by facsimile transmission equipment. Such papers, when placed in the transmission equipment, shall comply with all provisions of these rules and the Federal Rules of Civil Procedure regarding the form, format, service and signature of pleadings and papers. A part of such facsimile transmission shall be a certificate of counsel, or the affidavit of a party not represented by counsel, setting forth the facts constituting the compelling circumstance. A copy of the papers transmitted to the clerk shall also be immediately transmitted by facsimile transmission to all parties who have the capability of receiving facsimile transmissions. Parties not having such capability shall be given notice of the facsimile filing immediately by telephone. Should the court later determine that the certificate or affidavit does not describe compelling circumstances, or that the allegations are untrue, the papers filed by facsimile transmission shall be stricken, and other appropriate sanctions may be imposed. Any paper filed by facsimile transmission shall be stricken unless the original is filed with the clerk within five days of the facsimile filing unless the time is extended by the court for good cause shown.

* * *

As amended 3/20/92.
Renumbered 6/95. Formerly Rule 103.

RULE 77.2

ORDERS AND JUDGMENTS GRANTABLE BY CLERK

(a) Orders and Judgments. The clerk is authorized to grant the following orders and judgments without direction by the court:

(1) Orders specially appointing a person to serve process under Fed.R.Civ.P. 4(c).

(2) Orders extending once for ten days the time within which to answer, reply or otherwise plead to a complaint, cross-claim or counterclaim if the time originally prescribed to plead has not expired.

(3) Orders for the payment of money on consent of all parties interested therein.

(4) Consent orders for the substitution of attorneys.

(5) Consent orders dismissing an action, except in cases governed by Fed.R.Civ.P. 23 or 66.

(6) Entry of default and judgment by default as provided for in Fed.R.Civ.P. 55(a) and 55(b)(1).

Any order submitted to the clerk under this rule shall be signed by the party or attorney submitting it, and shall be subject to the provisions of Fed.R.Civ.P. 11 and Rule 11.1 of these rules. Any order submitted to the clerk for an extension of time under subparagraph (2) of this subsection shall specifically state:

(A) The date when the time for the act sought to be extended is due,

(B) The date to which the time for the act is to be extended, and

(C) That the time originally prescribed has not expired.

(b) Clerk's Action Reviewable. The actions of the clerk under this rule may be suspended, altered or rescinded by the court upon cause shown.

* * *

As amended 2/1/95.
Renumbered 6/95. Formerly Rule 115.

RULE 77.3

CASE NUMBERING SYSTEM

(a) Civil Cases. Each civil case when filed shall be assigned a number by the clerk which shall begin with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the individualized case number of four digits, followed by another hyphen and the initials of the judge to whom the case has been assigned. The four-digit individualized case numbers shall be as follows: Wichita cases shall begin with a "1" or a "6" (e.g. 98-1001-MLB); Kansas City cases shall begin with a "2" (e.g. 98-2001-GTV); and Topeka cases shall begin with a "4" (e.g. 98-4001-SAC). Prisoner cases shall begin with a A3@ (e.g. 98-3001-DES).

(b) Criminal Cases. Each criminal case when filed shall be assigned a number by the clerk which shall begin with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the individualized case number of five digits, followed by another hyphen and the number assigned to each particular defendant in the case. The five-digit individualized case numbers shall be as follows: Wichita cases shall begin with a "1" (e.g. 98-10001-01, et seq.); Kansas City cases shall begin with a "2" (e.g. 98-20001-01, et seq.); and Topeka cases shall begin with a "4" (e.g. 98-40001-01, et seq.). Prisoner cases shall begin with a A3@ (e.g. 98-30001-01, et seq.).

* * *

As amended 3/16/92.
Renumbered 6/95. Formerly Rule 105.

RULE 77.4

SEAL OF THE COURT

The seal of this court shall be an American eagle, with outspread wings, occupying a circular field beneath thirteen stars arranged in a semicircle, holding in its left talon four arrows and in its right talon a fruited olive branch. The circular field shall be bordered by the words "United States District Court, District of Kansas."

* * *

Renumbered 6/95. Formerly Rule 102.

RULE 77.5

DISSEMINATION OF INFORMATION BY COURT SUPPORTING PERSONNEL

Court supporting personnel shall not disclose to anyone, without authorization by the court, information relating to a pending civil case or matter under investigation by the judges, magistrate judges, or clerk of the court that is not a part of the public records of the court.

Court supporting personnel are prohibited from disclosing to any person, without authorization of the court, information concerning pending grand jury proceedings or relating to criminal cases, including, *inter alia*, grand jury subpoenas, search warrants, copies of the returns thereof and all papers in connection therewith, *in camera* arguments, hearings or conferences held in chambers or otherwise outside the presence of the public or not a part of the public records of the court.

The term "court supporting personnel," as used in this rule, includes United States probation officers, United States marshals, deputy marshals, judges' chambers personnel, bailiffs, official court reporters and employees or subcontractors retained by them, court reporters retained by parties, and clerks of the court or their deputies.

Any person violating this rule shall be subject to punishment as for criminal contempt of court.

* * *

As amended 3/16/92.
Renumbered 6/95. Formerly Rule 120.

RULE 77.6

BENCH-BAR COMMITTEE

There is a Bench-Bar Committee appointed by the court.

(a) Membership. The committee shall consist of the Chief Judge, such other judges as may from time to time be appointed by the court, the United States Attorney or an assistant designated by him, the district public defender or an assistant designated by him, the chair of the bench-bar committee of the Kansas Bar Association and five actively practicing members of the bar of the court, selected by the district judges.

(b) Terms of Office. Those members of the Bench-Bar Committee serving at the time of the adoption of these rules shall continue to serve the remainder of the terms for which they were appointed. As the terms of the United States Attorney's office, the terms of the representatives of the public defender's office, and the attorney-members expire, their successors shall be appointed, each to serve a three-year term. In the discretion of the court, members may serve successive terms.

(c) Meetings. The Bench-Bar Committee shall meet at such times as it shall determine and at the call of the Chief Judge.

(d) Duties. The Bench-Bar Committee shall have general advisory and liaison roles with respect to the operation of the court and shall, among other things: (1) Provide a forum for the continuous study of the operating procedures of the court; (2) serve as liaison among the court, its bar and the public; (3) study, consider and recommend the adoption, amendment or rescission of the Rules of Practice of the court; (4) study and promote a continuing legal education program; and (5) make such studies and render such reports and recommendations as the court shall direct.

* * *

As amended 10/20/93.
Renumbered 6/95. Formerly Rule 406.

RULE 79.1

ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the office of the clerk during normal business hours.

(b) Copies. The clerk will make and furnish copies of official public court records upon request and upon payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not classed as public records within the meaning of this rule.

(d) Search for Cases by the Clerk. The office of the clerk of this court is authorized to make a search of the most recent ten years of the master index maintained in the office, and to issue a certificate of such search. The clerk shall charge a fee of $20.00 for each name for which a search is conducted, payable in advance.

* * *

As amended 6/01, 6/13/88.
Renumbered 6/95. Formerly Rule 108.

RULE 79.2

COURT LIBRARIES

The court's libraries are maintained for the exclusive use of the judges and magistrate judges and their staffs.

* * *

Renumbered 6/95. Formerly Rule 109.

RULE 79.3

CUSTODY AND DISPOSITION OF TRIAL EXHIBITS, SEALED DOCUMENTS, AND FILED DEPOSITIONS

(a) Custody with the Clerk. Unless otherwise directed by the court, all trial exhibits admitted into evidence in criminal and civil actions shall be placed in the custody of the clerk, except as provided in section (b) below.

(b) Custody with the Offering Party. All exhibits not suitable for filing and transmission to the Court of Appeals as a part of a record on appeal shall be retained in the custody of the party offering them, subject to the orders of the court. Such exhibits shall include, but not be limited to, the following types of bulky or sensitive exhibits: Narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and documents or physical exhibits of unusual bulk or weight.

At the conclusion of a trial or proceeding, the party offering such exhibits shall retain custody of them and be responsible to the court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired. The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the appellate court, if required. Such party shall be responsible for documentation of the chain of custody of such exhibits.

(c) Disposition of Exhibits, Sealed Documents and Filed Depositions by Clerk. Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk if unclaimed after reasonable notice.

(d) Depositions. Depositions read into the record are considered exhibits for which the parties shall be responsible as provided in section (b) above. Depositions on file admitted into evidence but not read into the record shall be retained in the clerk's custody and disposed of as authorized in section (c) of this rule.

* * *

Renumbered 6/95. Formerly Rule 121.

RULE 79.4

SEALED FILES AND DOCUMENTS IN CIVIL CASES

(a) Documents/files sealed after the effective date of this rule. Any file, pleading, motion, memorandum, order or other document placed under seal by order of this court in any civil action shall be unsealed by operation of this rule ten years after entry of a final judgment or dismissal unless otherwise ordered by the court at the time of entry of such judgment or dismissal. Any party, upon motion filed no more than six months before the seal is to be lifted, with notice to the remaining parties, may seek to renew the seal for an additional period of time not to exceed ten years. There shall be a rebuttable presumption that the seal shall not be renewed, and the burden shall be on the moving party to establish an appropriate basis for renewing the seal.

(b) Documents/files under seal before the effective date of this rule. On an ongoing basis, for a term of ten years from the effective date of the adoption of this rule, the clerk of the court will identify all civil files which have been sealed, or civil files in which sealed pleadings, motions, memoranda, orders or other documents are contained, and which files have been closed by entry of final judgment or order of dismissal, for a term of ten years of more, and at that time shall notify the parties, by written notice mailed to the last known address of counsel representing each party to the action, that:

(1) unless a motion to extend the seal, served on all parties to the action, is filed within six months, the seal will be lifted; and

(2) if a motion to extend the seal is filed, the burden shall be on the moving party to overcome a rebuttable presumption that the seal shall not be renewed and to establish an appropriate basis for renewing the seal.

In the event of a pro-se litigant all notices required by this rule shall be mailed to the last known mailing address of such litigant as reflected in the records of the Clerk of the District court in the file in issue.

(c) By its terms, this rule applies only to civil actions and does not apply to sealed files, documents, records, transcripts, or any other matter sealed in criminal cases.

* * *

New rule, adopted 10/22/98.

- XI -

GENERAL PROVISIONS

RULE 81.1

REMOVAL FROM STATE COURTS

(a) Notice of Removal. A defendant or defendants desiring to remove any civil action from a state court shall file a notice of removal as required by 28 U.S.C. ' 1446.

(b) Place of Filing Notice of Removal. Except in cases removed by the United States, when removal of a civil case is from a state court of the First, Sixth, Tenth, Eleventh, Twenty-second or Twenty-ninth Judicial Districts of Kansas, the notice of removal shall be filed in the record office of the clerk of this court at Kansas City; when from the state court of the Second, Third, Fourth, Fifth, Seventh, Eighth, Twelfth, Twenty-first, Twenty-eighth or Thirty-first Judicial Districts of Kansas, the notice of removal shall be filed in the record office of the clerk of this court at Topeka; when from a state court of the Ninth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-seventh or Thirtieth Judicial Districts of Kansas, the notice of removal shall be filed in the record office of the clerk of this court at Wichita.

(c) Notice to Parties. Written notice of the filing of the notice of removal shall be promptly served upon all adverse parties. A copy of the notice of removal shall be filed forthwith with the clerk of the state court from which the case is removed and such filing shall effect the removal. The party removing the action shall file proof of service of all notices and filings with the clerk of the state court by certificate filed in the case with the clerk of this court.

* * *

As amended 3/10/92.
Renumbered 6/95. Formerly Rule 202(a)-(c).

RULE 81.2

COPIES OF STATE COURT PROCEEDINGS IN REMOVED ACTIONS

Within 20 days after filing the notice of removal, the removing party shall procure and file with the clerk of this court a copy of all records and proceedings had in the state court. The court may remand any case sought to be removed to this court because of failure to comply with the provisions of this subsection.

* * *

Renumbered 6/95. Formerly Rule 202(d).

RULE 83.1.1

AMENDMENT OF RULES

The public notice provided in 28 U.S.C. ' 2071 and Fed.R.Civ.P. 83 for making and amending these rules shall consist of publication in The Journal of the Kansas Bar Association of a notice of the proposed making or amending of these rules and inviting written comment.

* * *

As amended 2/14/89.
Renumbered 6/95. Formerly Rule 106.

RULE 83.1.2

STANDING ORDERS AND MANDATED RULES

(a) Standing Orders. By vote of a majority of the district judges, the court may from time to time issue standing orders dealing with administrative concerns or with matters of temporary or local significance. Each standing order, unless expressly made effective until further order, shall include the date it is to become effective and the date of its expiration. Standing orders shall have the same force and effect as other rules of the court. They shall be numbered consecutively by calendar year (e.g., 98-1) and are set out in Part XVI of these rules. They shall be cited as D.Kan. S.O. 98-1, e.g.

(b) Mandated Rules. Mandated rules are those adopted (1) in compliance with statute, or the Federal Rules of Procedure (civil or criminal); or (2) by direction of a superior court; or (3) subject to approval by an external reviewing panel.

(c) Amendment. The provisions of Local Rule 83.1 shall not apply to the adoption, amendment or rescission of standing orders and mandated rules. Standing orders and mandated rules may be adopted, amended or rescinded by action of a majority of the judges.

* * *

Renumbered 6/95. Formerly Rule 107.

RULE 83.2.1

PHOTOGRAPHS, RECORDINGS, AND BROADCASTS

Except for devices used in connection with official court records, radio or television broadcasting and the use of photographic, electronic, or mechanical reproduction or recording equipment is prohibited in courtrooms or their environs. "Environs" is defined to mean the courtrooms, the offices of the judges, magistrate judges, clerk, probation officers, or any corridor connecting or adjacent thereto, including all parking areas and entrances to and exits from the United States Courthouse, or so close to any such facilities as to disturb the order or decorum of the court. Ceremonial proceedings such as the administration of oaths of office to appointed officials of the court, naturalization, and presentation of portraits or awards may be photographed in or broadcast from the courtroom, only with permission and under the supervision of the court. This rule does not apply to use of courtrooms by other government agencies.

* * *

As amended 9/28/87.
Renumbered 6/95. Formerly Rule 116.

RULE 83.2.2

COURT SECURITY

(a) Application of Rule. This rule shall apply to any building occupied or used by the United States Courts in the District of Kansas, and to the environs of any such building. It shall be in effect at all times that judges, magistrate judges, or court personnel are present whether or not court proceedings are actively under way.

(b) Persons Subject to Search. All persons seeking entry to a courtroom, to the chambers of a judge, to any offices of the court, or to any of the halls or corridors adjacent thereto are subject to search by the United States Marshal, Deputy United States Marshals, or other officers designated by the Marshal or by the court. Such search may include briefcases, parcels, purses or other containers carried by persons seeking entry to a courtroom.

(c) Weapons. With the exception of weapons carried by the United States Marshal, Deputy United States Marshals, Court Security Officers, Federal Protective Officers, officers approved by the court, the United States Marshal, or by federal law, and authorized law enforcement officers whose official duty station is the courthouse, no weapons other than exhibits shall be permitted in the courthouse. No person other than a United States Marshal, Deputy United States Marshal, Court Security Officer or officer approved by the court or United States Marshal shall bring a weapon other than an exhibit into any courtroom except as specifically permitted by this rule. Any firearm intended for introduction as an exhibit must be presented to the United States Marshal for a safety check prior to its being brought into any courtroom.

(d) Emergency Mutual Aid. This rule shall not apply during emergency mutual aid situations occurring at any building occupied or used by this court. Exemptions include, but are not limited to, police response to calls for assistance, fire and/or first aid response to rescue calls, or law enforcement and emergency response to critical building emergencies. When possible, the United States Marshal and/or Court Security Officer should be notified of the need to exempt this rule.

* * *

As amended 2/95; 11/93.
Renumbered 6/95. Formerly Rule 117.

RULE 83.2.3

SPECIAL ORDERS IN SENSATIONAL CASES

In a widely-publicized or sensational criminal or civil case the court, on motion of any party or on its own motion, may enter a special order governing such matters as extrajudicial statements by attorneys, parties or witnesses; the seating and conduct of spectators and news media representatives; the management and sequestration of jurors and witnesses; and other matters which the court finds necessary to insure a fair trial.

* * *

Renumbered 6/95. Formerly Rule 118.

RULE 83.2.4

ELECTRONIC COMMUNICATION DEVICES

Unless exempted by a district, magistrate, or bankruptcy judge, every person upon entering the courthouse, shall deposit with court security officers or a member of the U.S. Marshals Service any computer, cell phone, pager, two-way radio, or other electronic communication device in his or her possession.

This rule shall not apply to federal law enforcement officers or employees or tenants of the courthouse.

* * *

New rule, adopted 7/9/99.

- XII -

ATTORNEYS AND BAR DISCIPLINE

RULE 83.5.1

ROLL OF ATTORNEYS

(a) The bar of this court shall consist of those attorneys admitted to practice before this court who have taken the oath prescribed by the rules in force at the time they were admitted; who have signed the roll of attorneys maintained by the clerk; and who remain in good standing.

(b) Law firms, law partnerships and corporations may not be members of the bar of this court. No attorney shall be permitted to appear in any action or proceeding merely because he is associated in a firm, partnership or corporation, one or more members of which are admitted to practice in this court.

(c) Only attorneys enrolled as provided in paragraph (a) of this rule or duly admitted pro hac vice may appear or practice in this court, provided, however, that nothing in these rules shall be construed to prohibit any individual from appearing personally on his or her own behalf.

(d) These rules governing attorneys who practice before the court are applicable to the United States Bankruptcy Court for the District of Kansas.

* * *

As amended 10/20/93.
Renumbered 6/95. Formerly Rule 401.

RULE 83.5.2

ADMISSION TO BAR

(a) Those persons admitted to practice in the courts of the State of Kansas and/or the United States District Court for the Western District of Missouri who are in good standing in any and all bars to which they have ever been admitted (or who have resigned from such a bar as a member in good standing, so long as such resignation was not made to avoid investigation or discipline) may apply for admission to the bar of this court.

(b) Admissions will be granted upon motion of a member of the bar of this court accompanied by the written statement of the applicant representing that the applicant: (1) Is of good moral character; (2) meets the foregoing requirements; (3) can demonstrate familiarity with the Rules of Practice of this court, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and federal jurisdiction and venue. Such familiarity may be based upon course work completed, examination, experience, or such other evidence as the movant deems substantially equivalent.

(c) The following oath or affirmation shall be administered to the applicants by or at the direction of a district judge or magistrate judge of this district:

You do solemnly swear/affirm that you will support the Constitution of the United States; that you will do no falsehood, nor consent to the doing of any in court; that you will not wittingly or willfully promote or sue any false, groundless, or unlawful suit, nor give aid or consent to do the same; that you will delay no person for lucre or malice, but you will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with good fidelity, as well to the court as to your clients.

(d) Persons who are holders of a temporary permit to practice law granted by the Supreme Court of Kansas may apply for a temporary permit to practice in this court. The granting of temporary admissions to practice in this court shall be governed by the provisions of this rule, and shall be effective upon the applicant taking the oath prescribed by this rule. Such temporary permit to practice in this court shall be in effect only so long as the temporary admittee's temporary permit to practice in the Kansas State Courts shall be in effect.

* * *

As amended 7/9/99; 11/13/97; 11/16/90.
Renumbered 6/95. Formerly Rule 402.

RULE 83.5.3

REGISTRATION OF ATTORNEYS

(a) All attorneys admitted to the practice of law before this court shall annually, on or before the first day of July, register with the clerk on such forms as the clerk shall prescribe. As a part of the registration form the registrant shall certify that during the 12-month period immediately preceding the date of registration he or she has earned at least the minimum number of credit hours required by the Rules of the Supreme Court of Kansas relating to continuing legal education, and that he or she has read and is familiar with these local rules. If admitted to practice before this court solely because of admission to the United States District Court for the Western District of Missouri, the registrant shall certify that he or she has earned the minimum number of credit hours required by the rules of the Missouri Supreme Court and the Western District of Missouri related to continuing legal education. At the time of each registration the registrant, if not excused by these rules from payment, shall pay an annual fee in such amount as the court shall have ordered for the ensuing 12-month period. The clerk shall issue to each attorney duly registered hereunder a registration card on a form approved by the court.

(b) State court judges who are barred by law or rule from the practice of law are exempt from payment of the registration fee. Attorneys appearing pro hac vice are not required to pay the annual registration fee. No registration fee shall be charged to any attorney newly admitted to the practice of law in Kansas until the first regular registration date following such admission.

(c) An attorney who has retired from or is no longer engaged in the practice of law in this court may so notify the clerk in writing. An attorney filing such notice shall thereafter be ineligible to practice in this court until reinstated under such terms as the court shall direct. During any period of retirement or inactive status under this rule, the retired or inactive attorney shall be relieved from the payment of the annual registration fee.

(d) All monies collected under the provisions of this rule shall be deposited and maintained in a separate account to be known as the Bar Registration and Disciplinary Fund, to be held by the clerk, as trustee, and not on behalf of the United States. At some time during the first three months of each calendar year the district judges shall examine the accounts of the trustee of the fund, and taking into consideration the amount on hand, the projected earnings from investments, and the probable expense of pending and anticipated proceedings, shall fix the registration fee for the next annual registration of attorneys. The registration fee shall be fixed at an amount not greater than is required to maintain the fund at a level reasonably necessary to defray the expected costs and expenses of administering the registration and disciplinary procedures carried on pursuant to the rules of the court.

(e) Disbursements from the Bar Registration and Disciplinary Fund shall be made only for the following purposes:

(1) To defray the costs and expenses of administering the registration and bar disciplinary procedures carried on pursuant to the rules of this court.

(2) To reimburse counsel who accept appointments by the court to represent indigent parties in civil cases for their actual out-of-pocket expenditures which counsel are compelled to incur, which the client is not able to pay, and which are not otherwise recoverable in the action. Allowable expenses may include items set out in 28 U.S.C. ' 1920, fees for expert witnesses and other extraordinary expenses which are approved in advance by the court. Such approval may be obtained from the court ex parte. Reimbursements shall not include general office overhead or items and services of a personal nature. Reimbursement may be obtained by making application for approval of such reimbursement to the judge or magistrate judge assigned to the case on forms supplied by the clerk, setting out in detail the

expense incurred, and the justification for such expense. The clerk shall reimburse counsel in such amount as is approved by the judge or magistrate judge. Authorization to approve reimbursement of expenses exceeding $1,000.00 must also be approved by the chief judge.

(3) To reimburse members of official committees appointed by the court, who may not be otherwise reimbursed, for their expenses incurred in attending meetings and performing the duties required of committee members. Applications for such reimbursements shall be made on forms supplied by the clerk, and may be approved by the clerk in amounts not to exceed $300.00. Reimbursement for expenses exceeding $300.00 must also be approved by the chief judge.

(4) To make such other expenditures deemed by the district judges to be for the benefit of the court and bar. Such expenditures, if for less than $300.00 may be authorized by the chief judge; if for a greater amount by vote of a majority of the district judges.

(f) Any attorney who has failed to register will be summarily suspended as of September 1 of the registration year.

(g) Any attorney whose authority to practice law in this court has ceased solely because of his failure to register or to pay the annual registration fee may be reinstated by the court upon application and the payment of all delinquent registration fees (except that back fees may be waived by the court for good cause shown), and payment of such additional amount as the court may require.

(h) It shall be the duty of any member of the bar of this court who is charged in any court of the United States or of any state, territory, district, commonwealth or possession of the United States with the commission of a felony or with unprofessional conduct to notify the clerk in writing within ten (10) days after service of process or notice to him or her of such charge. The provisions of this subsection shall also apply to diversion agreements relating to criminal charges or potential criminal charges or disciplinary proceedings.

* * *

As amended 9/00.
Renumbered 6/95. Formerly Rule 403.

RULE 83.5.3.1

APPOINTMENT OF COUNSEL IN CIVIL CASES

In those civil cases (other than a *habeas corpus* action) where a judge appoints counsel to represent a party, reimbursement of out-of-pocket expenses may be made pursuant to D. Kan. Rule 83.5.3(e)(2).

* * *

As amended 6/5/95.

RULE 83.5.4

APPEARANCE FOR A PARTICULAR CASE

(a) Subject to the provisions of 28 U.S.C. '' 515, 517, and other similar provisions of the United States Code, persons not admitted to practice in this court who are members in good standing of the bar of another state or of the bar of another federal court may, upon motion made by a member of the bar of this court in good standing, be admitted for the purposes of a particular case only. The motion shall be in writing and shall be accompanied by an affidavit on the form prescribed by court rule (See Appendix). The motion and affidavit shall be accompanied by payment of a registration fee in the sum of $10.00. If an attorney has paid the registration fee for an appearance pro hac vice, no other pro hac vice registration fee shall be required to be paid by that attorney during the same calendar year. Attorneys employed by any department or agency of the United States government shall not be required to pay a pro hac vice registration fee.

(b) An attorney admitted pro hac vice who, while practicing in this court under such admission, is charged in any court of the United States or of any state, territory or possession of the United States with the commission of a felony or with unprofessional conduct, shall notify the clerk in writing within ten (10) days after service of process or notice to him or her of such charge.

(c) All pleadings or other papers signed by an attorney admitted pro hac vice shall also be signed by a member of the bar of this court in good standing who shall participate meaningfully in the preparation and trial of the case or proceedings to the extent required by the court. An attorney who applies for admission pro hac vice by doing so consents to the exercise of disciplinary jurisdiction by this court over any alleged misconduct that occurs during the progress of the case in which the attorney so admitted participates.

(d) Appearance Pro Se. Any party appearing on his or her own behalf without an attorney shall be expected to read and be familiar with the Rules of Practice and Procedure of this court; the relevant Federal Rules of Civil Procedure, of Criminal Procedure or the Bankruptcy Rules; with the pertinent Federal Rules of Evidence; and to proceed in accordance therewith.

(e) Preclusion from Practice. An attorney who has been permitted to appear pursuant to this rule who is found guilty of a serious crime or is publicly disciplined by another court may be precluded from continuing that special appearance and from appearing at the bar of this court in any other case.

(f) In the event disciplinary or grievance proceedings or sanctions are pending, the court may, in its discretion, refuse admission pending disposition of such proceedings.

* * *

As amended 9/00; 6/18/97; 10/20/93.
Renumbered 6/95. Formerly Rule 404.

RULE 83.5.5

WITHDRAWAL OF APPEARANCE

An attorney who has appeared in a case may withdraw in accordance with Rule 1.16 of the Model Rules of Professional Conduct. An attorney seeking to withdraw must file and serve a motion to withdraw on all counsel of record, and provide a proposed order for the court. In addition, the motion must be served either personally or by certified mail, restricted delivery, with return receipt requested on the withdrawing attorney's client. Proof of personal service or the certified mail receipt, signed by the client, or a showing satisfactory to the court that the signature of the client could not be obtained, shall be filed with the clerk. A motion to withdraw must specify the reasons therefor unless to do so would violate any applicable standards of professional conduct. Except when substitute counsel authorized to practice in this court has entered an appearance, withdrawing counsel shall provide evidence of notice to the attorney's client containing (1) the admonition that the client is personally responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order and (2) the dates of any pending trial, hearing or conference. Withdrawal shall not be effective until an order authorizing withdrawal is filed. The clerk shall mail a copy of the order to the party affected.

Substitution of counsel admitted to practice in this court is authorized without an order of the court. Substitution of counsel may be accomplished by the filing of a pleading entitled "Withdrawal of Counsel and Entry of Appearance of Substituted Counsel" signed by the attorney withdrawing and the attorney to be substituted. Such pleading shall be served pursuant to Fed. R. Civ. P. 5(b) on the client and all counsel of record in the case. Withdrawal of counsel for a defendant in a criminal case who wishes to appeal from a judgment of conviction after trial or a guilty plea or from a sentence imposed under the Sentencing Guidelines is governed by 10th Circuit Rules 46.3 and 46.4.

* * *

As amended 10/22/98; 2/2/95.
Renumbered 6/95. Formerly Rule 405.

RULE 83.5.6

LEGAL INTERNS

Legal interns, as defined in Kansas Supreme Court Rule 709, who meet the qualifications set forth in that rule, may appear before the judges and magistrate judges of this district to perform the same services as provided in said Rule 709. Legal interns appearing before this court shall be subject to all of the requirements and limitations of said Rule 709. Prior to an appearance, whether by signature on a pleading, motion, or memorandum, or by appearance in court, the legal intern and the supervising attorney shall file in the record of the case a copy of the order admitting the legal intern to practice under Rule 709 as well as all written consents and approvals required thereby.

* * *

As amended 2/27/98; 2/3/95.
Renumbered 6/95. Formerly Rule 418.

RULE 83.6.1

PROFESSIONAL RESPONSIBILITY

(a) Kansas Rules. The Kansas Rules of Professional Conduct as adopted by the Supreme Court of Kansas, and as amended by that court from time to time, except as otherwise provided by a specific rule of this court, are adopted by this court as the applicable standards of professional conduct.

(b) Disciplinary Enforcement. For misconduct defined in these rules, and after proceedings conducted in accordance with these rules, any attorney within the disciplinary jurisdiction of this court may be disbarred, suspended from practice, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

(c) Standards of Conduct. Any of the following acts or omissions by an attorney shall constitute misconduct and shall be grounds for discipline:

(1) Acts or omissions which violate the standards of professional conduct adopted by this court;

(2) Conduct violating applicable rules of professional conduct of another jurisdiction;

(3) Willful disobedience of an order of court requiring the attorney to do or forebear an act connected with or in the course of the practice of law;

(4) Willful violation of the attorney's oath prescribed by these rules;

(5) Neglect or refusal, on demand, to pay over or to deliver money or property due or belonging to a client except where such money or property is retained under a bona fide claim of a lien for services;

(6) Destroying, secreting, fraudulently withdrawing, mutilating or altering any paper, record or exhibit belonging to the files or records in any action or proceeding;

(7) Willful violations of a valid order of the court, the Disciplinary Panel, the Committee on Conduct of Attorneys or a hearing panel; the willful failure to appear before or respond to a lawful demand from disciplinary authority, except that this rule does not require disclosure of information otherwise protected by applicable rules relating to confidentiality.

* * *

As amended 9/17/99, 10/22/98.
Renumbered 6/95. Formerly Rule 407.

RULE 83.6.2

DISCIPLINE OF ATTORNEYS

(a) Disciplinary Panel. The chief judge shall assign a panel of three active or senior judges of the court to be known as the Disciplinary Panel which shall have general supervision over all proceedings involving the disbarment, suspension, censure or other discipline of lawyers practicing in this court or the alleged physical or mental disability of lawyers. The chief judge may, from time to time, designate other judges to serve as members or as alternates on the Disciplinary Panel.

(b) Committee on Conduct of Attorneys. There exists a standing committee known as the Committee on Conduct of Attorneys consisting of seven members of the bar of this court appointed by the court, serving fixed staggered terms of three years each and each serving until a successor has been appointed. In case of any vacancy, any successor appointed shall serve the unexpired term of the predecessor. Where a member shall hold over after expiration of the term for which the appointment was made the time of such additional service shall be deemed part of the new term. Five members shall constitute a quorum. The committee shall act only with the concurrence of a majority, except as to administrative matters which shall require only a majority of those present and voting.

The court shall designate a chair and a vice-chair of the Committee on Conduct of Attorneys who shall act in the absence of disability of the chair. Members of the Committee on Conduct of Attorneys shall serve without compensation for their services but may be reimbursed for travel and other expenses incidental to the performance of their duties. No member of the Committee on Conduct of Attorneys shall serve more than two consecutive terms.

(c) Duties of the Committee. The Committee on Conduct of Attorneys is charged with receiving, investigating, considering and acting upon complaints against attorneys and other matters concerning the misconduct, disability or reinstatement of attorneys referred to them by the Disciplinary Panel. In such matters the Committee on Conduct of Attorneys shall be guided by, but not limited to the Model Rules of Professional Conduct as adopted by the Supreme Court of Kansas and any applicable standards of professional conduct adopted by the court. The committee is authorized to report its findings concerning any disciplinary action to the grievance committee or disciplinary authority of any other bar of which the disciplined attorney may be a member. Additionally, the committee is authorized to reveal such information to any other court-authorized grievance organization and such national reporting organizations or grievance clearing houses as the committee deems appropriate and consistent with the objectives of this rule. The committee shall also perform such additional duties as may be implicit from these rules or as may be assigned by order of the Disciplinary Panel.

(d) Duties of the Clerk.

(1) The clerk shall maintain as a public record a general file to be known as the "Bar Disciplinary File." In it shall be kept a copy of any procedural guidelines which may be adopted by the Disciplinary Panel and such other documents as the Disciplinary Panel may direct. It shall not contain complaints or other papers filed in individual disciplinary proceedings or sealed by order of the court.

(2) The clerk shall keep a separate "Bar Discipline Docket" in which entries shall be made in bar disciplinary cases in the same manner as entries are made in the civil docket pursuant to Fed.R.Civ.P. 79. The bar discipline docket shall be marked "sealed" and confidentiality with respect to entries therein shall be maintained except as otherwise provided by these rules or ordered by the court.

(3) The clerk, when a complaint is filed shall, unless the facts already are known, ascertain from the disciplinary authorities of all bars of which the charged attorney is a member, his or her standing and disciplinary record, file the information received and report it to the Disciplinary Panel.

(4) Notice To Disciplinary Authorities. The clerk shall transmit notice of all public discipline imposed against a lawyer, transfers to or from disability inactive status, and reinstatements to the Disciplinary Administrator of the Supreme Court of Kansas and to the National Discipline Data Bank

maintained by the American Bar Association; and to the disciplinary authorities of any other bars of which the disciplined attorney may be a member.

(e) Confidentiality.

(1) Prior to the filing and service of formal charges in a disciplinary matter, the proceedings are confidential, except that the pendency, subject matter, and status of an investigation may be disclosed (A) by the clerk if the respondent has waived confidentiality or if the proceeding is based upon allegations that include either the conviction of a crime or public discipline by another court; (B) by the Disciplinary Panel if it has been determined by it that the proceeding is based upon allegations that have become generally known to the public; or that there is a need to notify another person or organization, including any recognized clients' security fund in order to protect the public, the administration of justice, or the legal profession.

(2) Proceedings. Upon filing and service of formal charges in a disciplinary matter, or filing of a petition for reinstatement, the proceeding is public except for deliberations of the hearing panel, board or court or information with respect to which the hearing panel or court has issued a protective order.

(3) Proceedings Alleging Disability. Proceedings for transfer to or from disability inactive status are confidential. All orders transferring a lawyer to or from disability inactive status are public.

(4) Protective Orders. In order to protect the interests of a complainant, witness, third party, or respondent, the Disciplinary Panel may, upon application of any person and for good cause shown, issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential and direct that the proceedings be conducted so as to implement the order, including requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(5) Duty of Participants. All participants in a proceeding under these rules shall conduct themselves so as to maintain the confidentiality mandated by this rule.

* * *

As amended 10/22/98; 11/16/90.
Renumbered 6/95. Formerly Rule 408.

RULE 83.6.3

PROCEDURE IN DISCIPLINARY CASES

(a) Jurisdiction. Any lawyer admitted to practice law in this court, including any formerly admitted lawyer with respect to acts committed prior to resignation, suspension, disbarment, or transfer to inactive status, or with respect to acts subsequent thereto which amount to the practice of law in violation of these rules or of the Model Rules of Professional Conduct as adopted by the Supreme Court of Kansas or any standards of professional conduct adopted by the court in addition to or in lieu thereof, and any lawyer specially admitted for a particular proceeding, or any lawyer not admitted to the bar of this court or the bar of Kansas who practices or attempts to practice law in this court is subject to the disciplinary jurisdiction of this court.

(b) Complaints Generally. Any person seeking to complain against an attorney practicing in this court for any cause or conduct which may justify disciplinary action shall do so in writing and under oath except that a complaint by a judge or magistrate judge of this court need not be verified. All complaints shall be filed in the record office of the clerk at Kansas City and shall be referred by the clerk to the Disciplinary Panel for such action as may be required or authorized by these rules.

(c) Initial Action by Disciplinary Panel. If, after due consideration, the Disciplinary Panel shall:

(1) Find from the face of the complaint that it is frivolous, groundless or malicious, dismiss it. In which event the order shall recite the reasons for dismissal. When a complaint is dismissed under this subparagraph, the clerk shall mail a copy of the order of dismissal to the complainant by certified mail, return receipt requested;

(2) Find from the face of the complaint that the misconduct charged in the complaint would, if true, justify the imposition of disciplinary sanctions, it shall refer the matter to the chairperson of the Committee on Conduct of Attorneys who shall name a hearing panel consisting of three members of the Committee on Conduct of Attorneys, one of whom shall be designated as chairperson of the hearing panel.

(d) Hearing Panel. A hearing panel shall sit as a panel of inquiry and, upon reasonable notice to the complainant and respondent, may hold hearings on the issues made. All hearings shall be recorded verbatim pursuant to 28 U.S.C. ' 753(b). The chairman of the hearing panel conducting the inquiry is hereby designated and appointed master with authority to cause subpoenas to be issued commanding the appearance of witnesses, the production of books, papers, documents or tangible things designated therein at such hearings or such other time designated in the subpoena. The chairman of the hearing panel, as such master, is further authorized to administer oaths to the parties and witnesses. Should any witness fail or refuse to attend or to testify under oath, the name of that witness may be certified to the Disciplinary Panel which may order the initiation of contempt proceedings against such witness.

(e) Investigation by Disciplinary Counsel.

(1) The chairman of the Committee on Conduct of Attorneys with the concurrence of the hearing panel and the approval of the Chief Judge may appoint one or more members of the bar of this court (or if circumstances require of the bar of another court) in good standing, as Disciplinary Counsel whose duty it shall be to investigate, present and prosecute charges and prepare all orders and judgments as directed by the hearing panel.

(2) Disciplinary Counsel shall conduct an initial investigation of the charges and shall submit a written report to the hearing panel recommending dismissal of the complaint, informal admonition of the attorney concerned, or prosecution of formal charges before a hearing panel. Disposition shall thereupon be made by a majority vote of the hearing panel unless it directs further investigation.

(3) If informal admonition is contemplated the attorney involved shall first be notified and may, by written request to the chairman of the Committee on Conduct of Attorneys, demand a formal hearing.

(f) Formal Charges.

(1) If formal prosecution is directed or demanded, Disciplinary Counsel shall, after making such additional investigation as he deems necessary, prepare and file with the clerk a formal complaint which shall be sufficiently clear and specific to inform the respondent of the alleged misconduct. A copy of the complaint, together with a summons in the general form of a civil summons issued pursuant to Rule 4, Fed.R.Civ.P., shall be served upon the respondent as a summons may be served under that rule. The respondent shall serve a response upon Disciplinary Counsel and file a copy thereof with the clerk within twenty (20) days after service of the complaint unless that time is extended by the chairman of the hearing panel. Following the service of a response, or upon respondent's failure to respond, and upon completion of any additional investigation allowed either party by the chairman of the hearing panel, the matter shall be set for hearing by the chairman of the hearing panel.

(2) Disciplinary Counsel shall serve a notice of hearing upon the respondent, respondent's counsel, and the complainant. The notice shall state that the respondent is entitled to be represented by counsel at his own expense, to cross-examine witnesses and to present evidence. The notice shall also state the date and place of the hearing and shall be served at least fifteen (15) days in advance of the hearing date. The hearing, except as otherwise provided by these rules, shall be governed by the Federal Rules of Evidence. All witnesses shall be sworn and all proceedings and testimony shall be recorded as provided by 28 U.S.C. ' 753(b). The burden is on Disciplinary Counsel to establish charges of misconduct by clear and convincing evidence.

(3) At the conclusion of the hearing, disciplinary counsel shall prepare a report setting forth the findings and recommendations of the hearing panel which shall be signed by a majority of the panel and submitted to the Disciplinary Panel. In recommending discipline, the hearing panel may take into consideration the prior record, if any, of the respondent. Mitigating or aggravating circumstances which affect the nature or degree of discipline recommended shall be fully set forth in the panel's report. If the panel cannot agree unanimously on either the findings of fact or the recommended discipline, or both, the Disciplinary Counsel shall prepare and file a majority report. The minority member may file a minority report. The reports shall be filed with the clerk for reference to the Disciplinary Panel and a copy shall be mailed or delivered by Disciplinary Counsel to the respondent and to counsel of record. The hearing panel's report is confidential, shall be so marked, and shall not become a public record unless so ordered by the Disciplinary Panel.

(4) The hearing panel may, with or without preparing charges, refer the matter to the Disciplinary Administrator of the Supreme Court of Kansas.

(g) Review of Report.

(1) The clerk shall forward to the Disciplinary Panel with the hearing panel's report copies of the complaint; the answer, if any; the transcript of the hearing; all evidence admitted before the panel; and all evidence properly offered but rejected; which together shall constitute the record in the case. He shall at the same time issue and serve, by certified mail to the respondent's last address registered with the clerk, a citation directing the respondent to file within twenty (20) days from the date of mailing either (A) a statement that the respondent does not wish to file exceptions to the report, findings and recommendations, or (B) respondent's exceptions to the report. Any part of the report, findings or recommendations not timely excepted to shall be deemed admitted. If the citation is not deliverable by mail directed to the respondent's last address registered with the clerk and the respondent cannot be otherwise served, the matter shall stand submitted upon the filing by the clerk of a certificate reporting such facts.

(2) If the respondent fails to file timely exceptions, the hearing panel's findings of fact shall be deemed admitted and the case submitted on the record. If exceptions are timely filed, the respondent shall have thirty (30) days thereafter to file a brief; Disciplinary Counsel thirty (30) days after service of the respondent's brief; and the respondent ten (10) days after service of Disciplinary Counsel's brief to

file a responsive brief. The case will be submitted to the Disciplinary Panel on the record when all briefs have been filed or the time for filing them has expired.

(3) If the Disciplinary Panel shall receive reliable information that disability or disciplinary proceedings involving the same attorney or the same or connected circumstances are pending or contemplated in another jurisdiction, the Panel may stay the proceedings in this court or direct such other action as it deems appropriate.

(4) During its review the Disciplinary Panel shall not receive or consider any evidence that was not presented to the hearing panel, except after notice to the respondent and Disciplinary Counsel and opportunity to respond. If new evidence warranting a reopening of the proceeding is discovered, the case shall be remanded to the hearing panel for a hearing which may be limited to specified issues.

(5) Upon conclusion of the proceedings the Disciplinary Panel shall, for the court, promptly enter an appropriate order.

* * *

As amended 10/22/98; 11/16/90.
Renumbered 6/95. Formerly Rule 409.

RULE 83.6.4

RECIPROCAL DISCIPLINE

(a) Discipline by Other Courts. Upon being disciplined in another jurisdiction, a lawyer admitted to practice before this court shall promptly inform the clerk. Upon notification from any source that a lawyer within the jurisdiction of this court has been disciplined in another jurisdiction the clerk shall obtain and file a certified copy of the disciplinary order.

(b) Notice and Order to Show Cause. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been publicly disciplined by another court the clerk, in the name of the court, shall forthwith issue a notice directed to the attorney containing: (1) a copy of the judgment or order from the other jurisdiction or a statement of any information received relating to the discipline imposed by the other court; and (2) an order to show cause directing that the attorney inform the Disciplinary Panel within 30 days after service of that order upon the attorney, personally or by certified mail, return receipt requested, of any claim by the attorney predicated upon the grounds set forth in (d) hereof that the imposition of discipline substantially similar to that imposed by the other court would be unwarranted and the reasons therefor. The other court shall be given notice of the issuance of the order to show cause and of the response by the attorney, and shall have the right to intervene in the proceedings for the purpose of demonstrating that the discipline imposed by it was appropriate.

(c) Stays. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

(d) Reciprocal Discipline Imposed; Exceptions: Upon the expiration of the 30 days from service on the respondent of the notice issued pursuant to the provisions of this rule, the Disciplinary Panel shall impose discipline substantially similar to that imposed by the other court unless the respondent-attorney demonstrates, or the Disciplinary Panel finds, that upon the face of the record upon which the discipline in the other jurisdiction is predicated it clearly appears:

(1) That the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Disciplinary Panel could not, consistent with its duty, accept as final the conclusion on that subject; or

(3) that the imposition of the same discipline by the Disciplinary Panel would result in grave injustice; or

(4) that the misconduct established is deemed by the Disciplinary Panel to warrant substantially different discipline.

Where the Disciplinary Panel determines that any of said elements exist, it shall enter such other order as it deems appropriate. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that the imposition of the same or substantially similar discipline is not appropriate.

(e) Final Adjudication in Other Courts. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this court.

(f) Referral to Committee on Conduct of Attorneys. The Disciplinary Panel may at any stage refer proceedings under this rule to the Committee on Conduct of Attorneys for investigation and report to the panel.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 410.

RULE 83.6.5

ATTORNEYS CONVICTED OF CRIMES

(a) Attorney's Duty. It shall be the duty of any attorney practicing before this court, regularly or pro hac vice, who is charged with commission of a felony or a grievance such as would subject the attorney to discipline in this court, in any other court of the United States or of any state, territory, district, commonwealth or possession, to notify the clerk in writing on or before ten (10) days after the filing of such charge or grievance.

(b) Interim Suspension. Upon the filing with the clerk of this court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before this court has been convicted in any other court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, the Disciplinary Panel shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding based upon such conviction. A copy of such order shall immediately be served upon the attorney. Such service may be made personally or by certified mail, return receipt requested, addressed to the attorney at his or her most current address on file with the clerk of this court. For good cause shown the Disciplinary Panel may set aside such order when it appears in the interests of justice so to do.

(c) Serious Crime.

(1) The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy of solicitation of another to commit a "serious crime."

(2) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime" the Disciplinary Panel may refer the matter to the Committee on Conduct of Attorneys for its investigation and recommendation.

(d) A certificate of a conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against said attorney based upon the conviction. A diversion agreement, for the purpose of any disciplinary proceeding, shall be deemed a conviction of the crime originally charged.

(e) An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 411.

RULE 83.6.6

INTERIM SUSPENSION

Interim Suspension of Attorneys. The Disciplinary Panel may, on its own motion, or on the motion of the Committee on Conduct of Attorneys, issue a citation directing an attorney against whom disciplinary or disability proceedings are pending in this court or in any other jurisdiction to appear before a member of the Disciplinary Panel and show cause why that attorney should not be suspended during the pendency of such proceedings. After hearing, or if the respondent shall fail to appear as ordered, the Disciplinary Panel may enter an order suspending the attorney from practice for a definite or indefinite period or may discharge the citation. The show cause order and a copy of the document initiating the disciplinary proceeding shall be served personally or by certified mail, return receipt requested, addressed to the attorney at his or her most current address on file with the clerk of this court.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 412.

RULE 83.6.7

ATTORNEYS WHO RESIGN FROM THE BAR DURING AN INVESTIGATION OF MISCONDUCT OR DISBARMENT ON CONSENT

(a) Any attorney admitted to practice before this court who shall be disbarred on consent or resign from the bar of this court or any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall promptly inform the clerk of this court of such disbarment on consent or resignation.

(b) Upon receipt of information from any source that an attorney practicing in this court has been disbarred on consent or has resigned from the bar of any court, the clerk shall report such information to the Disciplinary Panel.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 413.

RULE 83.6.8

REINSTATEMENT AFTER DISCIPLINE

(a) Petitions for Reinstatement.

(1) An attorney who has been disbarred may not apply for reinstatement within five (5) years of the effective date of the disbarment. An attorney who has been suspended may apply for reinstatement at the end of the period of suspension. Reinstatement is neither automatic nor a matter of right. However, an attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by the court.

(2) Petitions for reinstatement shall be accompanied by an advance cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.

(3) No petition for reinstatement under this rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(b) A petitioner seeking reinstatement shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competence and learning in the law required for admission to practice law before this court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice or subversive of the public interest.

(c) Petitions for reinstatement may be referred by the Disciplinary Panel to the Committee on Conduct of Attorneys. When so referred, the investigation shall be conducted by a hearing panel appointed by the chairman of that committee. The hearing panel, after review of the basic file and such investigation as it deems necessary, shall report its findings of fact with supporting documents and its recommendations to the Disciplinary Panel.

(d) The Disciplinary Panel, after review of the files and the report of the hearing panel shall, for the court, enter an order granting or denying reinstatement.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 414.

RULE 83.6.9

PROCEEDINGS WHERE AN ATTORNEY IS DECLARED TO BE MENTALLY INCOMPETENT OR IS ALLEGED TO BE INCAPACITATED

(a) Attorneys Declared Mentally Incompetent. Where an attorney who is a member of the bar of this court has been judicially declared incompetent or involuntarily committed to a mental hospital, the Disciplinary Panel, upon proper proof of the fact, shall enter an order suspending such attorney from the practice of law effective immediately and for an indefinite period until further order of the Disciplinary Panel. A copy of such order shall be served upon such attorney, his or her guardian, and the director of the mental hospital in such manner as the Disciplinary Panel may direct.

(b) Attorneys Alleged to be Incapacitated. Whenever the Committee on Conduct of Attorneys, through its chairman, shall petition the Disciplinary Panel to determine whether an attorney who is a member of the bar of this court is incapacitated from continuing the practice of law by reason of mental or physical infirmity or illness or use of drugs or intoxicants, the Disciplinary Panel may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the Disciplinary Panel shall designate. Failure or refusal to submit to such examination shall be prima facie evidence of incapacity. If upon due consideration of the matter, the Disciplinary Panel concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending or transferring him or her to inactive status until further order of the Disciplinary Panel.

The Disciplinary Panel may provide for such notice to the respondent attorney of proceedings in the matter as is deemed proper and advisable and may appoint an attorney to represent the respondent if he or she is without representation.

(c) Claim of Disability During Disciplinary Proceedings. If, during the course of a disciplinary proceeding, the respondent attorney contends that he or she is suffering from a disability by reason of mental or physical infirmity or illness or use of drugs or intoxicants which makes it impossible for the respondent adequately to defend himself or herself, the Disciplinary Panel thereupon shall enter an order immediately suspending the respondent from continuing to practice law until a determination is made of the respondent's capacity to continue to practice law.

(d) Application for Reinstatement after Infirmity.

(1) Any attorney suspended for incompetency, mental or physical illness or because of use of drugs or intoxicants may apply to the Disciplinary Panel for reinstatement once a year, or at such shorter intervals as the Disciplinary Panel may direct in the order of suspension. The application shall be granted by the Disciplinary Panel upon a showing by clear and convincing evidence that the attorney's disability has been removed and that he or she is fit to resume the practice of law. The Disciplinary Panel may take or direct such action as it deems necessary or proper to a determination of whether the attorney's disability has been remedied including a direction for an examination of the attorney by such qualified medical experts as the Disciplinary Panel shall designate. The Disciplinary Panel may direct that expenses of such an examination shall be paid by the applicant.

(2) When an attorney has been suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital and has thereafter been judicially declared to be competent, the Disciplinary Panel may dispense with further evidence and direct the reinstatement of the attorney upon such terms as are deemed proper and advisable.

(e) Evidentiary Hearing. If an evidentiary hearing is held to determine whether an attorney is incapacitated or to consider an attorney's application for reinstatement, the Disciplinary Panel may appoint Disciplinary Counsel to appear for the purpose of examining and cross-examining witnesses and offering proof pertinent to the issues. The burden of proof in proceedings to transfer to disability inactive

status is on Disciplinary Counsel. The burden of proof in proceedings seeking reinstatement, readmission or transfer from disability inactive status is on the applicant.

(f) Waiver of Physician-Patient Privilege. The filing of an application for reinstatement by an attorney who has been suspended for disability shall constitute a waiver of any physician-patient privilege with respect to any treatment of the attorney during the period of his or her disability. The attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital by whom or in which the attorney has been examined or treated since suspension and shall furnish the Disciplinary Panel with written consent for such psychiatrists, psychologists, physicians or hospitals to divulge such information or records as may be requested by the medical experts designated by the Disciplinary Panel.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 415.

RULE 83.6.10

FEES AND COSTS

(a) The Disciplinary Panel may tax the costs of any disciplinary proceeding under these rules to a respondent or to a person seeking reinstatement, or as hereinafter provided.

(b) Disciplinary counsel appointed pursuant to these rules may make application to the Disciplinary Panel for an order awarding fees and reimbursement of expenses. Other expenses in the administration of the provisions of these disciplinary rules shall be paid upon order of the Disciplinary Panel.

(c) Any payment made under this rule shall be made by the clerk from the Bar Registration and Disciplinary Fund. All costs or reimbursements paid to the clerk in disciplinary or disability cases shall be deposited in the general account of the U.S. Treasury.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 416.

RULE 83.6.11

APPLICABILITY OF FED.R.CIV.P. 11 TO DISCIPLINARY PROCEEDINGS

The provisions of Fed.R.Civ.P. 11 shall be applicable to any pleading, motion or other paper filed or submitted in disciplinary proceedings conducted under these rules and specifically to proceedings under Rules 83.6.1 through 83.6.9.

* * *

Renumbered 6/95. Formerly Rule 110(d).

RULE 83.6.12

GENERAL PROVISIONS

(a) Nothing in these rules shall be construed as depriving this court of its inherent power to regulate the admission, practice and discipline of attorneys practicing before it.

(b) No statute of limitations shall bar any proceeding under these disciplinary rules.

(c) Processing of disciplinary complaints shall not be deferred or abated because of substantial similarity to the material allegations of pending civil or criminal litigation unless expressly authorized by the Disciplinary Panel. Neither unwillingness nor neglect of a complainant to sign a complaint or to prosecute a charge, nor settlement or compromise between the complainant and the attorney, nor restitution by the attorney, shall justify abatement of any complaint.

(d) Except as otherwise provided in these rules time limitations are directory and not jurisdictional.

(e) Any deviation from the rules and procedures set forth in these rules shall not constitute a defense in a disciplinary proceeding or be grounds for dismissal of any complaint absent actual prejudice to the respondent. The respondent shall have the burden of showing any such prejudice by clear and convincing evidence.

(f) Complaints, reports, or testimony in the course of disciplinary proceedings under these rules shall be deemed to be made in the course of judicial proceedings. All participants shall be entitled to judicial immunity and all rights, privileges, and immunities afforded public officials and other participants in actions filed in the courts of Kansas.

* * *

As amended 11/16/90.
Renumbered 6/95. Formerly Rule 417.

- XIII -

REVIEW OF ADMINISTRATIVE PROCEEDINGS

RULE 83.7

REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES, BOARDS, COMMISSIONS AND OFFICERS (INCLUDING SOCIAL SECURITY APPEALS)

(a) Review or Enforcement of an Agency Order--How Obtained.

(1) Petition for review of agency order. Review of an order of an administrative agency, board, commission, or officer must be obtained by filing a pleading with the clerk of the court, within the time prescribed by law, and in the form indicated by the applicable statute. (As used in this rule, the term "agency" includes any federal agency, board, commission, or officer--including the Commissioner of Social Security under Title 42 of the United States Code.) The caption of the initial pleading must name each party seeking review. The pleading also must name the defendant or respondent designated in the applicable statute, and identify the order or part thereof to be reviewed. The pleading shall also contain a citation of the statute by which jurisdiction is claimed. If two or more persons are entitled to seek judicial review of the same order and their interests are such as to make joinder proper, they may file a joint pleading.

(2) Application for enforcement of order; cross-application for enforcement. An application for enforcement of an order of an agency shall contain a concise statement of the proceedings in which the order was entered, the facts upon which jurisdiction and venue are based, and the relief prayed. In cases seeking review of an agency order, which the court has jurisdiction to enforce, the agency may file a cross-application for enforcement.

(3) Service of process. Service of process shall be in the manner provided by Fed.R.Civ.P. 4, unless a different manner of service is prescribed by an applicable statute.

(b) The record on review or enforcement.

(1) Composition of the record. The order sought to be reviewed or enforced, the findings or report on which it is based, and the pleadings, evidence and proceedings before the agency shall constitute the record on review in proceedings to review or enforce the order of an agency, unless otherwise provided by the applicable statute.

(2) Omissions from or misstatements in the record. If anything material to any party is omitted from the record or is misstated therein, the parties may at any time supply the omission or correct the misstatement by stipulation, or the court may at any time direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be prepared and filed.

(c) Filing of the record. In review proceedings, the agency shall file the record with the clerk of this court when it files its answer unless a different time is provided by the statute authorizing review. In enforcement proceedings the record need not be filed unless the respondent has filed an answer contesting enforcement of the order. If the record is required, the court shall fix the time for its filing.

(d) Filing and service of briefs. The party seeking review shall serve and file a brief conforming to the requirements of D. Kan. Rule 7.6 within 45 days after the date on which the record is filed. The responding party shall serve and file a brief within 30 days after service of the brief of the party seeking review. The party seeking review may serve and file a reply brief within 14 days after service of the brief of the respondent. The time for filing and serving briefs may be extended or shortened by order of the court. The case shall be submitted when all briefs have been filed. The decision of the court will be rendered upon the briefs and the record, without oral argument, unless otherwise directed by the court.

(e) Applicability of other rules. The parties to any proceedings governed by this rule shall give the same notice of the filing of pleadings, records and other documents as is required by Fed. R. Civ. P. 5. All other provisions of the Federal Rules of Civil Procedure and the rules of this court shall apply to such

proceedings to the extent to which they are applicable. The provisions of this rule shall control over the provisions of any local rule in conflict.

* * *

As amended 10/22/98.
Renumbered 6/95. Formerly Rule 503.

- XIV -

RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS

RULE 83.8.1

THE BANKRUPTCY COURT

The serving bankruptcy judges of this district constitute and shall be known as "The United States Bankruptcy Court for the District of Kansas."

* * *

Renumbered 6/95. Formerly Rule 701.

RULE 83.8.2

SCOPE OF RULES

These local district court rules govern practice and procedure in this district of all cases under Title 11 United States Code and of all civil proceedings arising under, in or related to Title 11. They implement and complement Title 11 United States Code, the Bankruptcy Amendments and Federal Judgeship Act of 1984, the bankruptcy rules promulgated under 28 U.S.C. ' 2075 and other local rules of this court.

* * *

Renumbered 6/95. Formerly Rule 702.

RULE 83.8.3

FILING OF PAPERS

(a) Bankruptcy Rules 5005, 7001, 7003, and 9027 apply and all petitions, proofs of claim or interest, complaints, motions, applications and other papers referred to in those rules shall be captioned "In the United States Bankruptcy Court for the District of Kansas."

(b) The filing requirements provided by subsection (a) of this rule include--but are not limited to--cases and proceedings within the purview of 28 U.S.C. ' 1334(c)(2) and 28 U.S.C. ' 157(b)(5).

* * *

Renumbered 6/95. Formerly Rule 703.

RULE 83.8.4

MAINTENANCE OF CASE AND CIVIL PROCEEDING FILES; ENTRY OF JUDGMENTS

The clerk of the Bankruptcy Court shall maintain a complete file in each Title 11 case and in each proceeding arising in, under or related to Title 11. A certified copy is sufficient for a judgment, order, decision, proceeding separately docketed in the District Court. The entry of judgment by a district judge or a bankruptcy judge, as the case may be, shall be in accordance with Bankruptcy Rule 9021.

* * *

Renumbered 6/95. Formerly Rule 704.

RULE 83.8.5

CLARIFICATION OF GENERAL REFERENCE TO BANKRUPTCY JUDGES

(a) The order of this court ("In the Matter of the Enactment of an Order Conferring Authority and Responsibility Pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984") became effective as of July 10, 1984. Under that order all Title 11 U.S.C. cases and proceedings in, under or related to Title 11 continue to be referred to the bankruptcy judges of this district.

(b) That reference includes, without limitation,

(1) personal injury tort and wrongful death claims or causes of action within the purview of Title 28 U.S.C. ' 157(b)(5);

(2) state law claims or causes of action of the kind referred to at Title 28 U.S.C. ' 1334(c)(2); and

(3) involuntary cases under Title 11 U.S.C. ' 303.

* * *

Renumbered 6/95. Formerly Rule 705.

RULE 83.8.6

TRANSFER OF PARTICULAR PROCEEDINGS FOR HEARING AND TRIAL BY A DISTRICT JUDGE

A particular proceeding commenced in or removed to the Bankruptcy Court shall be transferred to the District Court for hearing and trial by a district judge only in accordance with the procedure below.

(a) A party seeking such transfer shall file a motion therefor in the Bankruptcy Court certifying one or more of the following grounds:

(1) It is in the interest of justice, in the interest of comity with state courts or respect for state law that this District Court should abstain from hearing the particular proceeding as is contemplated by 28 U.S.C. ' 1334(c)(1).

(2) The particular proceeding is based upon a state law claim or state law cause of action with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under 28 U.S.C. ' 1334; that an action on the claim or cause of action is commenced and can be timely adjudicated in a state forum; and that under 28 U.S.C. ' 1334(c)(2) this District Court must abstain from hearing the particular proceeding.

(3) The particular proceeding is a personal injury tort or a wrongful death claim within the purview of Title 28 U.S.C. ' 157(b)(5).

(4) Resolution of the particular proceeding requires consideration of both Title 11 U.S.C. and other laws of the United States regulating organizations or activities affecting interstate commerce and thus must be withdrawn to this District Court under 28 U.S.C. ' 157(d).

(5) The proceeding is under 11 U.S.C. ' 303, a jury trial is demanded, and no statement of consent to trial before a bankruptcy judge has been filed.

(6) Cause exists, within the contemplation of 28 U.S.C. ' 157(d), for the withdrawal of the particular proceeding to this District Court (a specification of such alleged cause must be stated).

(b) If movant is an original plaintiff, the motion shall be filed within 20 days after the proceeding is commenced.

(c) If movant is an original defendant, intervenor, or an added party, the motion shall be filed within 20 days after movant has entered appearance or been served with summons or notice.

(d) In a proceeding that has been removed under 28 U.S.C. ' 1452, the removing party shall file the motion within 20 days after the removal; other parties shall file within 20 days after being served with summons or notice.

(e) In a proceeding of the kind designated in (a)(3) above, a recommendation to the District Court may be filed by a bankruptcy judge *sua sponte* at any time.

(f) The motion for transfer, together with a written recommendation of a bankruptcy judge, shall be transmitted by the clerk of the Bankruptcy Court to the clerk of the District Court. The latter shall assign the motion to a district judge who shall rule *ex parte* or upon such notice as the district judge shall direct. The ruling shall be filed in the Bankruptcy Court as an order of the district judge.

(g) In instances where such ruling is not dispositive of the particular proceeding transferred, the proceeding shall go forward to hearing, trial and judgment as the district judge's order shall direct.

(h) A proceeding retained for hearing and determination by a district judge shall be carried on the civil docket of the clerk of the District Court. Certified copies of all final orders and judgments entered by the district judge shall be transmitted by the clerk of the District Court and filed with the clerk of the Bankruptcy Court.

* * *

Renumbered 6/95. Formerly Rule 706.

RULE 83.8.7

DETERMINATION OF PROCEEDINGS AS "NON-CORE"

Subject to Rule 83.8.6 next above, a particular proceeding shall be "non-core" under 28 U.S.C. ' 157(b) only if a bankruptcy judge so determines *sua sponte* or rules on a motion of a party filed under 28 U.S.C. ' 157(b)(3) within the time periods fixed by Rule 83.8.6(b)(c) and (d) *supra*. A determination that a related proceeding is non-core shall be in accordance with the guidelines of 28 U.S.C. ' 157(b) (1984) and on the general premise that core proceedings are matters arising in and under the Title 11 case that are integral and incident to the chapter relief requested.

* * *

Renumbered 6/95. Formerly Rule 707.

RULE 83.8.8

REVIEW OF NON-CORE PROCEEDINGS HEARD BY BANKRUPTCY JUDGE

(a) If a party objects under Bankruptcy Rule 9033 to the proposed findings of fact and conclusions of law filed by a bankruptcy judge in a non-core proceeding heard pursuant to 28 U.S.C. ' 157(c)(1), the party shall serve and file along with its objection a designation of the items contained in the bankruptcy court record which the party believes the district judge will need to review the proposed findings and conclusions as provided by Bankruptcy Rule 9033(d). Within the time allowed for responding to the objection, any other party shall serve and file a designation of any additional items in the record which that party believes the district judge will need. If any party designates a transcript of a proceeding or any part thereof, the party shall immediately deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for the payment of its cost.

(b) After the expiration of the time periods established by Bankruptcy Rule 9033 and the preparation of any requested transcripts, the Bankruptcy Court clerk shall transmit to the District Court clerk a copy of the proposed findings and conclusions, and either: (1) a copy of any objections and responses that have been filed and a copy of all portions of the record designated by the parties; (2) a copy of the parties= written consent to entry of orders based on the proposed findings and conclusions; or (3) a statement that no objections have been filed. On receiving these materials, the District Court clerk will assign the matter to a district judge.

(c) The district judge may summarily overrule objections lacking specificity as to allegedly erroneous findings or conclusions.

(d) If no objection has been timely filed or if the parties consent in writing, the district judge may accept the recommendations of the bankruptcy judge and enter appropriate orders without further notice.

* * *

As amended 6/18/97.
Renumbered 6/95. Formerly Rule 708.

RULE 83.8.9

POST-JUDGMENT MOTIONS

(a) In both "core" and "non-core" proceedings heard and determined by a bankruptcy judge, motions under Bankruptcy Rules 9023 and 9024 shall be filed in, and addressed to, the Bankruptcy Court.

(b) In proceedings heard and determined by a district judge, motions under Bankruptcy Rules 9023 and 9024 shall be filed in, and addressed to, the District Court.

* * *

Renumbered 6/95. Formerly Rule 709.

RULE 83.8.10

APPEALS

(a) An appeal from a final or interlocutory order of a bankruptcy judge in a core or a non-core proceeding under 28 U.S.C. ' 157(c)(2) shall be heard by a panel of the 10th Circuit Bankruptcy Appellate Panel Service unless one or more of the parties to the appeal elects pursuant to 10th Cir. B.A.P. Local Rule 8001-1(e) to have the appeal heard in the District Court. Appeals to the District Court are governed by 28 U.S.C. ' 158(a) and the procedure shall be according to Part VIII of the Federal Rules of Bankruptcy Procedure with the following modifications:

(1) A motion for leave to appeal an interlocutory order and any answer to the motion shall be submitted without oral argument unless otherwise ordered.

(2) The time limits specified in Bankruptcy Rule 8009(a) for filing briefs shall apply in appeals to the District Court unless the court fixes different limits in a specific case on its own motion or the motion of a party in interest.

(3) Bankruptcy Rule 8015 shall not be applicable in this district unless, in the order entered on the appeal, the district judge shall grant leave to file a motion for rehearing.

Note: Much of this rule currently repeats, often nearly word for word, provisions in the Federal Rules of Bankruptcy Procedure. It seems unnecessary for a local rule to do this. The revision proposed above amends the rule to reflect that appeals in the District of Kansas may go to the Bankruptcy Appellate Panel, and to retain those provisions that add something to the Federal Rules.

* * *

As amended 6/18/97.
Renumbered 6/95. Formerly Rule 710.

RULE 83.8.11

DIVISION OF BUSINESS OF BANKRUPTCY COURT; ASSIGNMENT OF TITLE 11 CASES

The business of the Bankruptcy Court shall be divided among the bankruptcy judges as provided in the supplemental Local Rules adopted by the Bankruptcy Court in accordance with Rule 812 subject to disapproval by the Chief Judge of the district. A particular Title 11 U.S.C. case may be reassigned in whole or in part in like manner.

* * *

Renumbered 6/95. Formerly Rule 711.

RULE 83.8.12

SUPPLEMENTAL BANKRUPTCY COURT LOCAL RULES

The Bankruptcy Court may adopt supplemental Local Rules not inconsistent with these District Court Rules, the Bankruptcy Rules, or Title 11 or Title 28 of the United States Code.

* * *

Renumbered 6/95. Formerly Rule 712.

RULE 83.8.13

JURY TRIALS

(a) A district judge shall conduct jury trials in all bankruptcy cases and proceedings in which a party has a right to trial by jury, a jury is timely demanded, and no statement of consent to jury trial before a bankruptcy judge has been filed.

(b) A bankruptcy judge shall conduct jury trials in all bankruptcy cases and proceedings in which a party has a right to trial by jury, where a jury is timely demanded, and the parties have jointly or separately filed a statement of consent to trial before a bankruptcy judge. A bankruptcy judge may hear and determine all motions, dispositive or otherwise, filed by the parties in such a case or proceeding.

* * *

As amended 2/10/95.
Renumbered 6/95. Formerly Rule 713.

- XV -

RULES APPLICABLE TO CRIMINAL CASES

RULE CR32.1

PRESENTENCE REPORTS

(a) When a presentence investigation and report are made under Fed. R. Crim. P. Rule 32(b)(1) the sentencing hearing shall be scheduled no earlier than seventy (70) days following entry of guilty plea or a verdict of guilty.

(b) Delivering the defendant's copy to the defendant's counsel shall satisfy the requirement of furnishing the presentence report to the defendant for purposes of Fed.R.Crim.P. Rule 32(b)(6)(A)&(C). The probation officer's recommendation, if any, on the sentence shall not be disclosed.

(c) After the final version of the presentence report has been provided to the parties, but no later than five (5) days prior to the sentencing date, the attorney for the government and/or the attorney for the defendant may file with the court a written statement setting forth their respective positions in regard to the sentencing factors, and facts which have not been resolved, in accordance with Guideline 6A1.2 and 6A1.3 and any amendments of the United States Sentencing Commission Guidelines Manual.

(d) Reports Made Available to U. S. Parole Commission or Bureau of Prisons. Any copy of a presentence report which the court makes available or has made available to the United States Parole Commission or to the Bureau of Prisons, constitutes a confidential court document and shall be presumed to remain under the continuing control of the court during the time it is in the temporary custody of the those agencies. Such copies shall be provided to the Parole Commission and the Bureau of Prisons only for the purpose of enabling those agencies to carry out their official functions, including parole release and supervision, and shall be returned to the court after such use, or upon request.

(e) Disclosure Under Subpoena. When a demand for disclosure of presentence and probation records is made by way of subpoena or other judicial process to a probation officer of this court, the probation officer may file a petition seeking instruction from the court with respect to responding to the subpoena. No disclosure shall be made except upon an order issued by this court.

* * *

Renumbered 6/95. Formerly Rule 305.

RULE CR44.1

REPRESENTATION OF INDIGENT DEFENDANTS

Pursuant to the provisions of the Criminal Justice Act of 1964, as amended, 18 U.S.C. ' 3006A (hereinafter referred to as "the Act"), the following plan is adopted for the representation of any person otherwise financially unable to obtain adequate representation.

(a) Applicability. This rule shall apply to any person:

(1) Who is charged with a felony, misdemeanor (other than petty offense and defined in 18 U.S.C. ' 1(3) unless the defendant faces the likelihood of loss of liberty), or with juvenile delinquency (see 18 U.S.C. ' 5034), or with a violation of probation, or

(2) Who is under arrest, when such representation is required by law, or

(3) Who is seeking collateral relief, as provided in subsection (b) of the Act, or

(4) Who is in custody as a material witness (see subsection (g) of the Act and sections 3144 and 3142(f) of Title 18, United States Code), or

(5) Who is entitled to appointment of counsel in parole proceedings under Chapter 311 of Title 18, U.S.C., or

(6) Whose mental condition is the subject of a hearing pursuant to Chapter 313 of Title 18, U.S.C., or

(7) For whom the Sixth Amendment to the Constitution requires the appointment of counsel, or for whom, in a case in which he or she faces loss of liberty, any federal law requires the appointment of counsel.

Representation shall include counsel and investigative, expert, and other services necessary for an adequate defense.

(b) Provisions for Furnishing Counsel.

(1) This rule provides for the furnishing of legal services by a Federal Public Defender Organization, supervised by a Federal Public Defender, and serving the United States District Court for the District of Kansas. In addition, this rule provides for the appointment and compensation of private counsel (hereinafter referred to as the "CJA Panel").

(2) The determination of whether a party entitled to representation will be represented by the Federal Public Defender Organization or by panel counsel is within the discretion of the appointing judge or magistrate judge. Insofar as practicable, the distribution of appointments shall be 75% of all appointments to the Federal Public Defender and 25% of all appointments to CJA Panel attorneys.

(c) Federal Public Defender Organization.

(1) The Federal Public Defender Organization for the District of Kansas was established in 1973, in accordance with the provisions of subsections (h)(1) and (2)(A) of the Act. The Federal Public Defender Organization shall maintain offices in Topeka, Wichita, and Kansas City, Kansas, and shall be headquartered at such of those locations as the Federal Public Defender determines, unless otherwise ordered by the court.

(2) The Federal Public Defender Organization shall operate pursuant to the provisions of subsection (h)(2)(A) of the Act, as well as the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures), promulgated by the United States Judicial Conference pursuant to subsection (i) of the Act.

(3) Neither the Federal Public Defender nor any appointed staff attorney may engage in the private practice of law.

(4) The Federal Public Defender shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by the Director, reports of the organization's activities, its financial position and proposed budget.

(5) The Federal Public Defender shall furnish to this court the current roster of staff attorneys and shall report any changes thereto to the court.

(6) In order to insure the effective supervision and management of the Federal Public Defender Organization, the Federal Public Defender will be responsible for the assignment of cases among the staff attorneys in that office. Accordingly, the court will assign cases in the name of the Federal Public Defender Organization rather than in the name of individual staff attorneys.

(d) Composition of Panel of Private Attorneys.

(1) Composition and Size. The court shall establish a panel of private attorneys called the "CJA Panel," who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The CJA Panel shall be large enough to provide a sufficient number of experienced attorneys to handle the Criminal Justice Act caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby, provide a high quality of representation.

(2) Eligibility. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district and must have knowledge of the Federal Criminal Law, Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the United States Sentencing Guidelines.

(3) Application. Application forms for membership on the CJA Panel shall be made available, upon request, by the offices of the full time magistrate judges sitting in Wichita, Topeka and Kansas City. Completed applications should be submitted to the magistrate judge's office, which will transmit the application to the Panel Selection Committee.

(4) Approval. The Panel Selection Committee shall approve all applicants prior to their membership on the CJA Panel.

(e) The Panel Selection Committees.

(1) Composition. There shall be a total of five panels sitting in Wichita, Topeka, Kansas City, Ft. Leavenworth and Ft. Riley areas. Each panel in Wichita, Topeka, and Kansas City shall consist of a district court judge, a full time magistrate judge, the Federal Public Defender or one of his designated assistants, and a member of the existing CJA Panel. The panel in the Ft. Leavenworth area and the Ft. Riley area shall consist of the magistrate judge assigned to handle the docket within that particular area, a district court judge, the Federal Public Defender or one of his designated assistants, and a member of the existing CJA Panel.

(2) Responsibilities. The committees shall meet at least once each year to review the preceding year's operation and administration of this rule and to recommend appropriate changes in the rule. The committees shall consider applications for membership on the CJA Panel, shall approve for membership those attorneys who appear best qualified, and shall inquire as to the continued availability and willingness of each CJA Panel member to accept appointment. In the event that it becomes necessary to consider removal of a panel member, the committee shall consider and determine such removal. The committees shall fix the minimum size for the panel. If at any time the panel membership decreases below the minimum size, the committees shall invite further applications for membership, convene a special meeting to review the qualifications of the applicants, and select new members.

The committees shall also provide orientation and training to members or prospective members of the panel, as the committees deem necessary.

(f) Assigning Appointments to CJA Panel Attorneys.

(1) Roster. Each magistrate judge's office shall maintain a current roster of all attorneys who are approved members of the CJA Panel for their particular area of the District of Kansas. The rosters shall include the attorneys' current office addresses and telephone numbers as well as a statement of their qualifications and experience, including any foreign language skill.

(2) Selection Method. Appointments from the CJA Panel rosters are to be made on a rotational basis, subject to the court's discretion to make exceptions due to the nature and complexity of the case, the attorney's experience, and language and geographical considerations. This procedure should result in

a balanced distribution of appointments and compensation among the members of the CJA Panel and in quality representation for each CJA defendant.

When a judge or magistrate judge determines that a CJA defendant needs an attorney, the judge or magistrate judge shall notify the magistrate judge's office of the need and of any geographic or qualification preferences. The magistrate judge's office shall determine the name of the next panel member who is available for appointment on the roster in that magistrate judge's area of the District of Kansas and shall provide the name to the appointing judge or magistrate judge.

Nothing in this rule is intended to impinge upon the authority of a presiding judge or magistrate judge to appoint an attorney who is not next in sequence or who is not a member of the CJA Panel, in appropriate cases, to insure adequate representation.

(3) Record of Appointments. An accurate record shall be kept by the magistrate judge's offices in Wichita, Topeka, Kansas City, Ft. Leavenworth area and Ft. Riley area of all appointments of CJA Panel attorneys. The record will include the attorney's name, the case name and number, the date of appointment and any other information deemed necessary by the Panel Selection Committee. In all cases in which attorneys appointed under the Criminal Justice Act are not members of the panel or are appointed out of sequence, the appointing judge or magistrate judge shall notify the magistrate judge's office as to the name of the attorney appointed and the date of appointment.

The above records of appointment of panel counsel shall be provided to the Federal Public Defender for the District of Kansas and the Clerk of the District Court upon request so that said offices can insure a distribution of 75 percent of all appointments to the Federal Public Defender and 25 percent of all appointments to CJA Panel counsel insofar as reasonably possible.

(4) Sanctions. Failure of a CJA Panel member to accept an appointment, without good cause, may result in his or her dismissal from the panel or any other appropriate sanctions.

(5) There is no property right in membership on the CJA Panel. Refusal to accept appointment on three occasions with a one year period shall constitute grounds for immediate removal from the panel. Otherwise removal from the panel shall be in the sole discretion of the panel.

(g) Compensation and Expenses of Appointed Attorneys.

(1) Generally. Compensation to attorneys and payment of other expenses, such as expert witnesses' or investigators' fees, shall be made in conformity with the Criminal Justice Act and the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures).

(2) Compensation. An attorney appointed under the Criminal Justice Act is responsible for submitting properly completed vouchers for services rendered (on CJA Form 20) promptly after the attorney's duties have terminated. Compensation normally cannot exceed the statutory maximum under the Act. In complex or extended cases, the court, upon application of counsel, may certify that payment in excess of the statutory case compensation maximums is necessary to provide fair compensation and may forward the claim for approval by the Chief Judge of the Court of Appeals. All vouchers seeking payment in excess of the statutory case compensation maximum must be accompanied by a detailed memorandum supporting and justifying counsel's claim that the representation given was in an extended or complex case and that excess payment is necessary to provide fair compensation.

(3) Investigative and Other Expenses. Investigative, expert or other services necessary for adequate representation, as authorized by subsection (e) of the Criminal Justice Act, shall be available to persons who are eligible under the Act and have had counsel appointed, and also to persons who have retained counsel but who are found by the court to be financially unable to obtain the necessary services.

If the total cost of investigative, expert or other services reasonably necessary for an adequate defense does not exceed $300.00, attorneys appointed under the Criminal Justice Act may incur expenses for these services without prior authorization, subject to later review.

If the total cost of services exceeds $300.00, prior authorization must be obtained from the assigned judge or magistrate judge if the expenses for these services are to be paid by the government. The cost of additional services cannot exceed $1000.00 as compensation per individual or organization

unless the assigned judge or magistrate judge certifies that excess payment is necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the Chief Judge of the Circuit.

Ex parte applications for services other than counsel shall be heard *in camera* and shall not be revealed without the consent of the defendant. The application shall be placed under seal until the final disposition of the case in the trial court, subject to further order of the court, in order to prevent improper disclosure of any defenses.

(4) Duty of Attorney to Advise Court. If at any time an appointment attorney obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, the attorney shall advise the court.

(5) Direct Remuneration from Client Prohibited. Nothing in this rule shall be construed as authorizing the appointed attorney to accept any remuneration whatsoever from the client. Any ability of the client to pay for his or her representation shall be the subject of an appropriate court order to reimburse the United States in whole or in part.

* * *

NOTE: This is a mandated rule.
As amended 10/22/98; 2/2/95.
Renumbered 6/95. Formerly Rule 301.

RULE CR44.2

APPEARANCE IN CRIMINAL CASES

Retained attorneys appearing for defendants in criminal cases shall promptly file a written entry of appearance.

* * *

Renumbered 6/95. Formerly Rule 302.

RULE CR47.1

RELIEF FROM STATE DETAINERS

No petition lodged or filed by a prisoner under the provisions of the Interstate Agreement on Detainers (18 U.S.C., Appendix III) for relief of any sort from the effect of a state detainer shall be entertained unless (a) the petitioner has, at least 180 days prior to the date of lodging or filing his petition, given or sent to the warden or other official having petitioner's custody for delivery to the prosecuting officer of the jurisdiction in which the case giving rise to the detainer is pending, and to the appropriate court, a written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint upon which the detainer is based; and (b) the petitioner has not been brought to trial on such indictment, information or complaint.

* * *

Renumbered 6/95. Formerly Rule 308.

RULE CR50.1

IMPLEMENTATION OF THE SPEEDY TRIAL ACT

Pursuant to the requirement of Rule 50(b) of the Federal Rules of Criminal Procedure, the Speedy Trial Act of 1974 (18 U.S.C. Chapter 208), the Speedy Trial Act Amendments Act of 1979 (Pub. L. No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act, (18 U.S.C. '' 5036, 5037), the judges of the United States District Court for the District of Kansas have adopted the following time limits and procedures to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

(a) Applicability.

(1) Offenses. The time limits set forth herein are applicable to all criminal offenses triable in this court, including cases triable by magistrates, except for petty offenses as defined in 18 U.S.C. ' 1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act, (Section 3172).

(2) Persons. The time limits are applicable to persons accused who have not been indicted or informed against as well as those who have, and the word "defendant" includes such persons unless the context indicates otherwise.

(b) Priorities in Scheduling Criminal Cases. Preference shall be given to criminal proceedings as far as practicable as required by Rule 50(a) of the Federal Rules of Criminal Procedure. The trial of defendants in custody solely because they are awaiting trial and of high-risk defendants as defined in subsection (e) of this rule should be given preference over other criminal cases. (Section 3164(a)).

(c) Time Within Which an Indictment or Information Must be Filed.

(1) Time Limits. If an individual is arrested or served with a summons and the complaint charges an offense to be prosecuted in this district, any indictment or information subsequently filed in connection with such charge shall be filed within 30 days of arrest or service. (Section 3161(b)).

(2) Grand Jury Not in Session. If the defendant is charged with a felony to be prosecuted in this district, and no grand jury in the district has been in session during the 30-day period prescribed in subsection (c)(1), such period shall be extended an additional 30 days. (Section 3161(b)).

(3) Measurement of Time Periods. If a person has not been arrested or served with a summons on a federal charge, an arrest will be deemed to have been made at such time as the person (i) is held in custody solely for the purpose of responding to a federal charge; (ii) is delivered to the custody of a federal official in connection with a federal charge; or (iii) appears before a judicial officer in connection with a federal charge.

(4) Related Procedures. At the time of the earliest appearance before a judicial officer of a person who has been arrested for an offense not charged in an indictment or information, the judicial officer shall establish for the record the date on which the arrest took place.

In the absence of a showing to the contrary, a summons shall be considered to have been served on the date of service shown on the return thereof.

(d) Time Within Which Trial Must Commence.

(1) Time Limits. The trial of a defendant shall commence not later than 70 days after the last to occur of the following dates:

(A) The date on which an indictment or information is filed in this district;

(B) The date on which a sealed indictment or information is unsealed; or,

(C) The date of the defendant's first appearance before a judicial officer of this district. (Section 3161(c)).

(2) Retrial, Trial After Reinstatement of an Indictment or Information. The retrial of a defendant shall commence within 70 days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial court and

reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other facts resulting from passage of time make trial within 70 days impractical. The extended period shall not exceed 180 days. (Section 3161(d)(2), (e)).

(3) Withdrawal of Plea. If a defendant enters a plea of guilty or *nolo contendere* to any or all charges in an indictment or information and is subsequently permitted to withdraw it, the time limit shall be determined for all counts as if the indictment or information were filed on the day the order permitting withdrawal of the plea became final. (Section 3161 (i)).

(4) Superseding Charges. If, after an indictment or information has been filed, a complaint, indictment, or information is filed which charges the defendant with the same offense or with an offense required to be joined with that offense, the time limit applicable to the subsequent charge will be determined as follows:

(A) If the original indictment or information was dismissed on motion of the defendant before the filing of the subsequent charge, the time limit shall be determined without regard to the existence of the original charge. (Section 3161 (d)(1)).

(B) If the original indictment or information is pending at the time the subsequent charge is filed, the trial shall commence within the time limit for commencement of trial on the original indictment or information.

(C) If the original indictment or information was dismissed on motion of the United States Attorney before the filing of the subsequent charge, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but the period during which the defendant was not under charges shall be excluded from the computations. Such period is the period between the dismissal of the original indictment or information and the date the time would have commenced to run on the subsequent charge had there been no previous charge. (Section 3161(h)(6)).

If the subsequent charge is contained in a complaint, the formal time limit within which an indictment or information must be obtained on the charge shall be determined without regard to the existence of the original indictment or information, but earlier action may in fact be required if the time limit for commencement of trial is to be satisfied.

(5) Measurement of Time Periods. For the purposes of this section:

(A) If a defendant signs a written consent to be tried before a magistrate and no indictment or information charging the offense has been filed, the time limit shall run from the date of such consent.

(B) In the event of a transfer to this district under Rule 20 of the Federal Rules of Criminal Procedure, the indictment or information shall be deemed filed in this district when the papers in the proceeding or certified copies thereof are received by the clerk.

(C) A trial in a jury case shall be deemed to commence at the beginning of *voir dire*.

(D) A trial in a non-jury case shall be deemed to commence on the day the case is called, provided that some step in the trial procedure immediately follows.

(6) Related Procedures.

(A) At the time of the defendant's earliest appearance before a judicial officer of this district, the officer will take appropriate steps to assure that the defendant is represented by counsel and shall appoint counsel where appropriate under the Criminal Justice Act and Rule 44 of the Federal Rules of Criminal Procedure.

(B) The court shall have sole responsibility for setting cases for trial after consultation with counsel. At the time of arraignment or as soon thereafter as is practicable, each case will be set for trial on a day certain or listed for trial on a weekly or other short-term calendar. (Section 3161 (a)).

(C) Individual calendars shall be managed so that it will be reasonably anticipated that every criminal case set for trial will be reached during the week of original setting. A conflict in schedules of Assistant United States Attorneys or defense counsel will be ground for a continuance or delayed setting only if approved by the court and called to the court's attention at the earliest practicable time.

(D) In the event that a complaint, indictment, or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion

of the United States Attorney, the trial on the new charge shall commence within the time limit for commencement of trial on the original indictment or information unless the court finds that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

(E) At the time of the filing of a complaint, indictment, or information described in paragraph (D), the United States Attorney shall give written notice to the court of that circumstance and of his position with respect to the computation of the time limits.

(F) All pretrial hearings shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's criminal docket.

(e) Defendants in Custody and High-Risk Defendants.

(1) Time Limits. Notwithstanding any longer time periods that may be permitted under subsections (c) and (d), the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined: (Section 3164(b)).

(A) The trial of a defendant held in custody solely for the purpose of trial on a federal charge shall commence within 90 days following the beginning of continuous custody.

(B) The trial of a high-risk defendant shall commence within 90 days of the designation as high-risk.

(2) Definition of "High-Risk Defendant". A high-risk defendant is one reasonably designated by the United States Attorney as posing a danger to himself or any other person or to the community.

(3) Measurement of Time Periods. For the purposes of this section:

(A) A defendant is deemed to be in detention awaiting trial when he is arrested on a federal charge or otherwise held for the purpose of responding to a federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including a detainer) for continuing to hold the defendant.

(B) If a case is transferred pursuant to Rule 20 of the Federal Rules of Criminal Procedure and the defendant subsequently rejects disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.

(C) A trial shall be deemed to commence as provided in subsections (d)(5)(c) and (d)(5)(D).

(4) Related Procedures.

(A) If a defendant is being held in custody solely for the purpose of awaiting trial, the United States Attorney shall advise the court at the earliest practicable time of the date of the beginning of such custody.

(B) The United States Attorney shall advise the court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered to be a high-risk.

(C) If the court finds that the filing of a "high-risk" designation as a public record may result in prejudice to the defendant, it may order the designation sealed for such period as is necessary to protect the defendant's right to a fair trial, but not beyond the time that the court's judgment in the case becomes final. During the time the designation is under seal, it shall be made known to the defendant and his counsel but shall not be made known to other persons without the permission of the court.

(f) Exclusion of Time for Computations.

(1) Applicability. In computing any time limit under subsections (c), (d) or (e), the periods of delay set forth in 18 U.S.C. ' 3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under subsection (g).

(2) Records of Excludable Time. The clerk of the court shall enter on the docket, in the form prescribed by the Administrative Office of the United States Courts, information with respect to excludable periods of time for each criminal defendant. With respect to proceedings prior to the filing of an indictment or information, excludable time shall be reported to the clerk by the United States Attorney.

(3) Stipulations.

(A) The attorney for the government and the attorney for the defendant may at any time enter into stipulations with respect to the accuracy of the docket entries recording excludable time.

(B) To the extent that the amount of time stipulated by the parties does not exceed the amount recorded on the docket for any excludable period of delay, the stipulation shall be conclusive as between the parties unless it has no basis in fact or law. It shall similarly be conclusive as to a co-defendant to the limited purpose of determining, under 18 U.S.C. ' 3161(h)(7), whether time has run against the defendant entering into the stipulation.

(C) To the extent that the amount of time stipulated exceeds the amount recorded on the docket, the stipulation shall have no effect unless approved by the court.

(4) Pre-Indictment Procedures.

(A) In the event that the United States Attorney anticipates that an indictment or information will not be filed within the time limit set forth in subsection (c), he may file a written motion with the court for a determination of excludable time. In the event that the United States Attorney seeks a continuance under 18 U.S.C. ' 3161(h)(8), he shall file a written motion with the court requesting such a continuance.

(B) The motion of the United States Attorney shall state (i) the period of time proposed for exclusion, (ii) the basis of the proposed exclusion. If the motion is for a continuance under 18 U.S.C. ' 3161(h)(8), it shall also state whether or not the defendant is being held in custody on the basis of the complaint. In appropriate circumstances, the motion may include a request that some or all of the supporting material be considered *ex parte* and *in camera*.

(C) The court may grant a continuance under 18 U.S.C. ' 3161(h)(8) for either a specific period of time or a period to be determined by reference to an event (such as recovery from illness) not within the control of the government. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in light of the facts of the particular case.

(5) Post-Indictment Procedures.

(A) At each appearance of counsel before the court, counsel shall examine the clerk's record of excludable time for completeness and accuracy and shall bring to the court's immediate attention any claim that the clerk's record is in any way incorrect.

(B) In the event that the court continues a trial beyond the time limit set forth in subsections (d) or (e), the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. ' 3161(h).

(C) If it is determined that a continuance is justified, the court shall set forth its findings in the record, either orally or in writing. If the continuance is granted under 18 U.S.C. ' 3161(h)(8), the court shall also set forth its reasons for finding that the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in light of the facts of the particular case.

(g) Minimum Period for Defense Preparation. Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from the date on which the indictment or information is filed or, if later, from the date on which counsel first enters an appearance or on which the defendant expressly waives counsel and elects to proceed *pro se*. In circumstances in which the 70-day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to subsection (d)(4), the 30-day minimum period shall also be determined by reference to the earlier indictment or information. When prosecution is resumed on an original indictment or information following a mistrial, appeal, or withdrawal of a guilty plea, a new

30-day minimum period will not begin to run. The court will in all cases schedule trials so as to permit defense counsel adequate preparation time in the light of all circumstances. (Section 3161(c)(2)).

(h) Time Within Which Defendant Should be Sentenced.

(1) Time Limit. A defendant shall ordinarily be sentenced within 45 days of the date of his conviction or plea of guilty or *nolo contendere*.

(2) Related Procedures. If the defendant and his counsel consent thereto, a presentence investigation may be commenced prior to a plea of guilty or *nolo contendere* or a conviction.

(i) Juvenile Proceedings.

(1) Time Within Which Trial Must Commence. An alleged delinquent who is in detention pending trial shall be brought to trial within 30 days of the date of which such detention was begun, as provided in 18 U.S.C. ' 5036.

(2) Time of Dispositional Hearing. If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 court days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. ' 5037(c).

(j) Sanctions.

(1) Dismissal or Release From Custody. Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to dismissal of the charges against him or to release from pretrial custody. Nothing in this rule shall be construed to require that a case be dismissed or a defendant released from custody in circumstances in which dismissal would not be required by 18 U.S.C. ' 3162 and 3164.

(2) High-Risk Defendants. A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C. ' 3164(b) shall, if the failure to commence trial was through no fault of the attorney for the government, have his release conditions automatically reviewed. A high-risk defendant who is found by the court to have intentionally delayed the trial of his case shall be subject to an order of the court modifying his nonfinancial conditions of release under Chapter 207 of Title 18, U.S.C., to insure that he shall appear at trial as required. (Section 3164(c)).

(3) Discipline of Attorneys. In a case in which counsel (A) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (B) files a motion solely for the purpose of delay which he knows is frivolous and without merit, (C) makes a statement for the purpose of obtaining a continuance which he knows to be false and which is material to the granting of the continuance, or (D) otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. ' 3161, the court may punish such counsel as provided in 18 U.S.C. '' 3162(b) and (c).

(4) Alleged Juvenile Delinquents. An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 U.S.C. ' 5036 shall be entitled to dismissal of his case pursuant to that section unless the Attorney General shows that the delay was consented to or caused by the juvenile or his counsel, or would be in the interest of justice in the particular case.

(k) Persons Serving Terms of Imprisonment. If the United States Attorney knows that a person charged with an offense is serving a term of imprisonment in any penal institution, he shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with the provisions of 18 U.S.C. ' 3161(j).

(l) Effective Date.

(1) The amendments to the Speedy Trial Act made by Public Law 86-43 became effective August 2, 1979. To the extent that this revision of the district's plan does more than merely reflect the amendments, the revised plan shall take effect upon approval of the reviewing panel designated in accordance with 18 U.S.C. ' 3165(c). However, the dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. ' 3162 and reflected in subsections (j)(1) and (3) of this rule shall apply only to defendants whose cases are commenced by arrest or summons on or after July 1, 1980, and to indictments and informations filed on or after that date.

(2) If a defendant was arrested or served with a summons before July 1, 1979, the time within which an information or indictment must be filed shall be determined under the plan that was in effect at the time of such arrest or service.

(3) If a defendant was arraigned before August 2, 1979, the time within which the trial must commence shall be determined under the plan that was in effect at the time of such arraignment.

(4) If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under subsection (e) shall be computed from that date.

* * *

NOTE: This is a mandated rule.
Renumbered 6/95. Formerly Rule 303.

RULE CR53.1

DISSEMINATION OF INFORMATION

(a) Prohibited Statements; Attorneys' Obligations.

(1) An attorney participating in or associated with a grand jury or other investigation of a criminal matter shall not make or participate in making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication and which does more than state without elaboration:

(A) Information contained in a public record;

(B) That the investigation is in progress;

(C) The general scope of the investigation including a description of the offense, and if permitted by law, the identity of the victim;

(D) A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto;

(E) A warning to the public of any dangers.

(2) An attorney associated with the prosecution or defense of a criminal case to be tried by a jury shall not make or participate in making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication which relates to:

(A) The character, reputation or prior criminal record (including arrests, indictments or other charges of crime) of the accused;

(B) The possibility of a plea of guilty to the offense charged or to a lesser offense;

(C) The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement;

(D) The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examination or tests;

(E) The identity, testimony or credibility of a prospective witness;

(F) Any opinion as to the guilt or innocence of the accused, the evidence or the merits of the case.

(3) Subsection (a)(2) above does not preclude an attorney from announcing:

(A) The name, age, residence, occupation and family status of the accused;

(B) Any information necessary to aid in the apprehension of an accused or to warn the public of any dangers he may present;

(C) A request for assistance in obtaining evidence;

(D) The identity of the victim of the crime;

(E) The fact, time and place of arrest, resistance, pursuit and use of weapons;

(F) The identity of investigating and arresting officers or agencies, and the length of the investigation;

(G) The nature, substance or text of the charge;

(H) Quotations from or references to public records of the court in the case;

(I) The scheduling or result of any step in the judicial proceedings;

(J) That the accused denies the charges made against him.

(4) The foregoing provisions of this rule do not preclude an attorney from replying to charges of misconduct publicly made against him or from participating in the proceedings of legislative, administrative or other investigative bodies.

(b) Attorneys' Employees and Associates. An attorney must exercise reasonable care to prevent his employees and associates from making any extrajudicial statement which the attorney would be prohibited from making under this rule.

(c) Fed.R.Crim.P. 6(e)(3)(B) Materials. Matters required to be filed with the District Court pursuant to Fed.R.Crim.P. 6(e)(3)(B) shall be first presented to the District Court before whom was impaneled the grand jury whose material has been disclosed. The disclosure should include all persons who will have access to the grand jury material except those who are under the immediate supervision of the attorney for the government or the government personnel to whom disclosure is reported. In the event the court directs the filing of the disclosure with the clerk's office, it shall be sealed by the clerk and not released except by order of the court for good cause shown.

(d) Closure of Proceedings. Unless otherwise provided by law, all criminal proceedings shall be held in open court and shall be available for attendance and observation by the public; provided that upon motion made or agreed to by the defense, the court in the exercise of its discretion may order a proceeding closed to the public in whole or in part on the following grounds:

(1) That there is a reasonable likelihood that the dissemination of information disclosed at such proceeding would impair the defendant's rights; and

(2) That reasonable alternatives to closure will not adequately protect a defendant's rights.

If the court orders closure it shall state for the record its specific findings concerning the need for closure.

* * *

Renumbered 6/95. Formerly Rule 304.

RULE CR55.1

VERIFICATION OF RECEIPT OF TRANSCRIPTS

The Clerk of the Court is authorized to verify the receipt of transcripts from court reporters on behalf of *pro se* persons and all Criminal Justice Act parties.

* * *

Renumbered 6/95. Formerly Rule 301.1.

RULE CR58.1

PAYMENT OF A FIXED SUM IN LIEU OF APPEARANCE IN CERTAIN PETTY OFFENSE CASES

A person charged in this district with the commission of specified petty offenses may pay a fixed sum to the clerk of this court in lieu of appearance before a United States District Judge or a United States Magistrate. For the purposes of this rule, the Central Violations Bureau for the Tenth Circuit may act as agent for the clerk of the court. Payment of the fixed sum to the clerk shall signify that the person charged with the petty offense does not contest the charge nor request a trial, and shall be tantamount to the entry of a plea of guilty. The amount so paid shall be forfeited to the United States of America.

* * *

NOTE: The petty offenses for which a fixed sum may be paid in lieu of appearance and the amount of the fixed sum to be paid are listed in a standing order of this court. The following categories of alleged offenders must appear for trial:

(a) Persons charged with any offense not listed in the standing order.

(b) Persons charged with an offense resulting in personal injury, death or property damage in excess of $100.00.

(c) Persons charged with any listed offense may be required to appear before a judge or magistrate if in the opinion of the law enforcement officer the circumstances surrounding the alleged offense are aggravated.

Renumbered 6/95. Formerly Rule 306.

- XVI -

STANDING ORDERS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-1

It is ordered that whenever a judge or magistrate judge of this court shall determine that there are reasonable grounds to believe that there may be disruption of any matter, hearing or trial over which he is to preside he may enter a Special Order containing the following provisions together with other provisions which he may deem necessary to insure that there be no such disruption:

1. No person shall be permitted to loiter, sleep or conduct himself in an unseemly or disorderly manner in the rooms, halls, courtrooms or entry ways of the building in which the trial or hearing is to be conducted or on any stairway leading thereto; or otherwise interfere with or obstruct judicial activities or proceedings;

2. Jurors, attorneys, witnesses and others having business with the court shall enter and leave the courtroom only by such doorways and at such times as shall be designated by the United States Marshal or the United States Security Officer having responsibility for the security of the court;

3. No persons carrying a bag, case, or parcel shall be permitted to enter or remain in any courtroom, room, hall or entry way of the courthouse without first, if requested, submitting such bag, case, or parcel to the appropriate United States Marshal, Deputy Marshal, or Security Officer for inspection;

4. Spectators shall be allowed to sit in that portion of a courtroom allocated by the Marshal or Security Officer for spectator seating. No spectator shall be admitted to or allowed to remain in a courtroom unless spectator seating is then available. If spectator seating is not available within the confines of the courtroom, those persons for whom seating is not available shall not be permitted in the halls or rooms adjacent to the courtroom;

5. Spectators leaving a courtroom while court is in session or at any recess shall not loiter in the halls or rooms of the courthouse and may be readmitted to the courtroom only in accordance with the provisions of this order.

Whenever any such Special Order is issued, a copy shall be posted at each doorway or entrance to the courtroom.

Any such order shall remain in effect until revoked, suspended or modified by the issuing judge or magistrate judge or by a majority vote of the district judges.

This Standing Order shall be effective when filed and shall remain in effect until further order of the court.

DATED this 1st day of January, 1988.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-2

Good cause appearing therefor, and in accordance with the action taken by the Judicial Conference of the United States at its September, 1986, proceedings, it is by the court,

ORDERED that effective October 1, 1986, transcript rates to be charged by the Official Court Reporters of this court are established as follows:

	Original	First Copy To Each Party	Each Additional Copy To The Same Party
Ordinary Transcript A transcript to be delivered within thirty (30) calendar days after receipt of an order	$3.00	$ .75	$ .50
Expedited Transcript A transcript to be delivered within seven (7) calendar days after receipt of an order	$4.00	$ .75	$ .50
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hours of the court on the following morning whether or not it actually be a court day	$5.00	$1.00	$ .75
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours	$6.00	$1.00	$ .75

The term "daily transcript" is defined as the copy of a transcript of each day's proceedings which is delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually be a court day.

This Standing Order shall remain in effect until further order of the court.

DATED this 1st day of January, 1988.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-3

Good cause appearing therefor, and in accordance with the action taken by the United States District Court for the District of Kansas at its September 19, 1986, meeting *en banc*, it is by the court,

ORDERED that effective January 1, 1987, the registration fee for admission of attorneys to practice in the United States District Court for the District of Kansas is raised from $5.00 to $10.00.

This Standing Order shall remain in effect until further order of the court.

DATED this 1st day of January, 1988.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-4

Pursuant to D. Kan. Rule 101(a) it is

ORDERED that the offenses for which a fixed sum may be paid in accordance with D. Kan Rule CR 58.1 and the amounts of the fixed sum to be paid for each such offense shall be shown and set forth in a schedule on file in each record office of the court. The offenses and the amount of the fixed sum for each scheduled offense shall be those established for offenses under federal statutes and regulations or state statutes made applicable by the Assimilative Crimes Statute (18 U.S.C. ? 13). The schedule referred to herein shall be modified, amended or supplemented by the Clerk without direction by the court as may be required by applicable federal or state statutes or regulations.

This order shall become effective on the date of adoption and shall remain in effect until the further order of the court.

Adopted September 30, 1987.

Amended November 13, 1987.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-6

CONDITIONS OF PROBATION AND/OR SUPERVISED RELEASE

Pursuant to D. Kan. Rule 83.1.2(a) it is

ORDERED that all persons placed on probation or supervised release by any judge or magistrate judge of this district, in addition to any special conditions ordered by the judge or magistrate judge, shall comply with the following conditions of probation or supervised release:

1. The person shall not commit another federal, state, or local crime during the term of supervision;
2. The person shall not leave the judicial district or other specified geographic area without the permission of the court or probation officer;
3. The person shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;
4. The person shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. The person shall support his or her dependents and meet other family responsibilities;
6. The person shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. The person shall notify the probation officer within 72 hours of any change in residence or employment;
8. The person shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. The person shall not frequent places where controlled substances are illegally sold, used, distributed, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
10. The person shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. The person shall permit a probation officer to visit at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. The person shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. The person shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. As directed by the probation officer, the person shall notify third parties of risks that may be occasioned by his or her criminal record or personal history or characteristics, and shall permit the probation officer to make such notification and to confirm his or her compliance with such notification requirement.

This Standing Order shall become effective on the date of its adoption and shall remain in effect until the further order of the court.

Adopted January 19, 1988.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 88-8

Pursuant to D. Kan. Rule 83.6.9(a) it is

ORDERED that the advance cost deposit which must accompany a petition for reinstatement of an attorney subjected to discipline is fixed at $500.00.

This Standing Order shall become effective on the date of its adoption and shall remain in effect until the further order of the Court.

Adopted May 6, 1988.

APPENDIX

Cross Reference List of Rules By Former Numbers
and Select Forms

CROSS REFERENCE LIST OF RULES BY FORMER NUMBERS

Former No.	New No.	Former No.	New No.
101	1.1	208(b)	5.3
102	77.4	209	23.1
103	77.1	210(a)	26.1
104	40.1	210(b)	30.1
105	77.3	210(c)	26.2
106	83.1.1	210(d)	33.1
107	83.1.2	210(e)	33.2
108	79.1	210(f)	37.1
109	79.2	210(g)	30.2
110(a)-(c)	11.1	210(h)	26.3
110(d)	83.6.11	210(i)	32.1
111	5.1	210(j)	37.2
112	7.6	210(k)	35.1
114	6.1	211	26.4
115	77.2	212	65.1
116	83.2.1	213	16.2
117	83.2.2	214	16.3
118	83.2.3	215	41.1
119	65.2	216	Repealed
120	77.5	217	40.3
121	79.3	218	58.1
122(a)	39.1	219	54.1
122(b)	51.1	220	54.2
123	47.1	221	62.2
124	62.1	301	CR44.1
125	83.1	301.1	CR55.1
126	67.1	302	CR44.2
201	3.1	303	CR50.1
202(a)-(c)	81.1	304	CR53.1
202(d)	81.2	305	CR32.1
203	4.1	306	CR58.1
204	4.2	307	9.1
205	40.2	308	CR47.1
206(a)&(b)	7.1	401	83.5.1
206(c)	56.1	402	83.5.2
206(d)	7.2	403	83.5.3
206(e)	15.1	404	83.5.4
206(f)	7.3	405	83.5.5
206(g)	7.4	406	77.6
206(h)	7.5	407	83.6.1
207	16.1	408	83.6.2
208(a)	24.1	409	83.6.3

Former No.	New No.	Former No.	New No.
410	83.6.4	604	72.1.4
411	83.6.5	605	72.1.5
412	83.6.6	701	83.8.1
413	83.6.7	702	83.8.2
414	83.6.8	703	83.8.3
415	83.6.9	704	83.8.4
416	83.6.10	705	83.8.5
417	83.6.12	706	83.8.6
418	83.5.6 (Adopted as 418 but never published)	707	83.8.7
501	66.1	708	83.8.8
502	71A.1	709	83.8.9
503	83.7	710	83.8.10
601	72.1.1	711	83.8.11
602	72.1.2	712	83.8.12
603	72.1.3	713	83.8.13

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____ ,	**)**	
	)	
Plaintiff(s),	**)**	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	**)**	
	)	
_____,	**)**	
	)	
Defendant(s).	**)**	

MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Pursuant to D. Kan. Rule 83.5.4., I move that _____ be admitted to practice in the United States District Court for the District of Kansas, for purposes of this case only.

I certify that I am a member in good standing of the Bar of this Court and that in compliance with D. Kan. Rule 83.5.4(c), I will sign all pleadings and other papers which are signed and filed by said attorney. I also agree that I will participate meaningfully in the preparation and trial of this case, to the extent required by the Court.

Pursuant to D. Kan. Rule 83.5.4 (a), I have attached the required affidavit in support of this motion, along with a proposed order granting this motion.

[Motion must be signed and served in accordance with D. Kan. Rule 5.1.]

NOTE: The motion and affidavit shall be accompanied by payment of a registration fee in the sum of $10.00. If an attorney has paid the registration fee for an appearance pro hac vice, no other pro hac vice registration fee shall be required to be paid by that attorney during the same calendar year. Attorneys employed by any department or agency of the United States government shall not be required to pay a pro hac vice registration fee.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____ ,	**)**	
	)	
Plaintiff(s),	**)**	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	**)**	
	)	
_____,	**)**	
	)	
Defendant(s).	**)**	

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Pursuant to D. Kan. Rule 83.5.4., I declare that the following facts are true, to the best of my knowledge, information and belief:

1. My full name is:

2. I practice under the following firm name or letterhead:

   Name:

   Address:

   Telephone Number:

   Fax:

   Email address:

3. I have been admitted to practice in the following courts (here list the dates and places of admission to all bars, state or federal, and any bar registration numbers):

Court	Date of Admission	Bar Number

4. I have reviewed D. Kan. Rule 83.5.4. Pursuant to that rule I have retained local counsel to assist in the representation in this case, and I agree that local counsel will sign all pleadings or other papers and participate meaningfully in the preparation and trial of the case or proceedings to the extent required by the Court.

5. I consent to the exercise of disciplinary jurisdiction over any alleged misconduct that occurs during the progress of this case.

6. I am in good standing in all bars of which I am a member.

7. No disciplinary or grievance proceedings have been previously filed against me.

8. No disciplinary or grievance proceedings are pending against me in any jurisdiction.

9. I have not been charged in any court of the United States or of any state, territory or possession of the United States with the commission of a felony or unprofessional conduct.

[NOTE: To the extent that the applicant cannot truthfully affirm the statements contained in paragraphs 6 through 9, the applicant shall attach additional pages which state all relevant facts in connection with that matter. At a minimum, if disciplinary or grievance proceedings have been filed, or criminal proceedings have been commenced, the applicant shall identify the court, case name, docket number and disposition.]

[Affidavit must be signed and served in accordance with D. Kan. Rule 5.1.]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____ ,	**)**	
	)	
Plaintiff(s),	**)**	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	**)**	
	)	
_____,	**)**	
	)	
Defendant(s).	**)**	

ORDER GRANTING MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Having considered the Motion For Leave To Appear Pro Hac Vice filed _____ (insert date), and for good cause shown, the Court finds that said motion should be sustained and that _____ (insert name) should be and hereby is admitted to practice in the United States District Court for the District of Kansas for purposes of this case only.

Dated this ____ day of _____, 2000.

_____
UNITED STATES MAGISTRATE JUDGE

LOCAL RULES

OF THE

UNITED STATES

BANKRUPTCY COURT

FOR THE

DISTRICT OF KANSAS

James A. Pusateri
Chief Judge

John T. Flannagan
Judge

Robert E. Nugent
Judge

EFFECTIVE MARCH 15, 2002

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

ORDER OF ADOPTION

Pursuant to the authority vested in this Court by Rule and Statute;

IT IS ORDERED that the rules attached hereto and designated "Local Rules of the United States Bankruptcy Court for the District of Kansas" are adopted and shall become effective March 15, 2002, and shall supersede the Court's existing rules and standing orders which are repealed effective March 15, 2002.

DATED this 6th day of March, 2002.

/s/ James A. Pusateri
JAMES A. PUSATERI, CHIEF JUDGE

/s/ John T. Flannagan
JOHN T. FLANNAGAN, JUDGE

s/ Robert E. Nugent
ROBERT E. NUGENT, JUDGE

ATTEST:

/s/ Fred W. Jamison
FRED W. JAMISON, CLERK

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
IN THE MATTER OF RULES OF PRACTICE
AND PROCEDURE IN THIS COURT
MEMORANDUM AND ORDER

By means of this Memorandum and Order, the Judges of this Court express their appreciation to the members of the Rules Committee appointed to make recommendations on possible revisions of the Local Rules of Practice and Procedure.

The individuals composing the committee devoted many days to the study of the existing local rules, the applicable federal statutes and rules, and the rules of other United States Bankruptcy Courts.

The development of the Local Rules of the United States Bankruptcy Court for the District of Kansas was not an easy task and the Rules Committee performed their task competently, unselfishly, and in the best tradition of the legal profession.

IT IS, THEREFORE, ORDERED that the Clerk file this Memorandum and Order as a permanent record of the Court and that he deliver an attested œpy to each member of the committee, namely:

Jan M. Hamilton, Chairman

Carl R. Clark	**J. Michael Morris**
William H. Griffin	**Joyce G. Owen**
Patricia E. Hamilton	**Steven R. Rebein**
Mary Patricia Hesse	**Patricia A. Reeder**
Emily B. Metzger	**Joseph I. Wittman**

DATED this 6th day of March, 2002.

/s/ James A. Pusateri
JAMES A. PUSATERI, CHIEF JUDGE

/s/ John T. Flannagan
JOHN T. FLANNAGAN, JUDGE

/s/ Robert E. Nugent
ROBERT E. NUGENT, JUDGE

ATTEST:

/s/ Fred W. Jamison
FRED W. JAMISON, CLERK

THE HONORABLE JAMES A. PUSATERI
CHIEF JUDGE
United States Bankruptcy Judge
215 Federal Building
444 Southeast Quincy Street
Topeka, Kansas 66683

THE HONORABLE JOHN T. FLANNAGAN
United States Bankruptcy Judge
125 U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101

THE HONORABLE ROBERT E. NUGENT
United States Bankruptcy Judge
104 U.S. Courthouse
401 North Market
Wichita, Kansas 67202

*** * * * * * * * * ***

BANKRUPTCY CLERK
Fred W. Jamison
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202

Wichita Clerk's Office
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202
(316) 269-6486

Topeka Clerk's Office
240 U.S. Courthouse
444 Southeast Quincy
Topeka, Kansas 66683
(785) 295-2750

Kansas City Clerk's Office
161 U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101
(913) 551-6732

PREFACE

Counsel who are unfamiliar with Kansas bankruptcy practice may find some helpful information in this preface to *The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas*.

1. Background

The Bankruptcy Code consists of amendments to the Bankruptcy Reform Act of 1978, P.L. 95-598, Title I, Sec. 101, 92 Stat. 2549, enacted into positive law November 6, 1978, effective October 1, 1979. Since its enactment, Congress has amended this law many times.

In 1982, the Supreme Court declared the jurisdictional support for the 1978 Act unconstitutional in *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). It did so because 28 U.S.C. ' 1471(c) invested non-Article III bankruptcy courts with powers exercisable only by Article III courts.

After *Marathon*, the bankruptcy system operated under an Emergency Rule promulgated by the Judicial Conference of the United States until 1984 when Congress enacted corrective legislation in the form of 28 U.S.C. ' 1334, which states:

> (a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.
> (b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

Hoping to cure the constitutional infirmity, Congress also declared that bankruptcy judges would "constitute a unit of the district court to be known as the bankruptcy court for that district." 28 U.S.C. ' 151.

To transfer the bankruptcy power to the bankruptcy courts, the 1984 amendments provided through 28 U.S.C. ' 157(a) that, "[e]ach district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district."

In Kansas, 28 U.S.C. ' 157(a) has been implemented by a Standing Order dated August 1, 1984 (effective July 10, 1984). However, the order itself does not appear in the *Rules of Practice and Procedure of the District Court*. Rather, it is mentioned in District Court Rule 83.8.5 entitled "Clarification of General Reference to Bankruptcy Judges." The exact text of the standing order reads:

> STANDING ORDER
> Pursuant to Sec. 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, 28 U.S.C. Sec.

157, this court refers all cases under Title 11, and any and all proceedings arising under Title 11, or arising in or related to a case under Title 11, to the bankruptcy judges for the District of Kansas, for consideration and resolution consistent with the law. The Court recognizes the exception contained in Sec. 157(b)(5).

IT IS HEREBY ORDERED that the Bankruptcy judges for the District of Kansas be and they hereby are directed to exercise the authority and responsibilities conferred upon them by the Bankruptcy Amendments and Federal Judgeship Act of 1984.

IT IS FURTHER ORDERED, effective as of July 10, 1984, that any and all cases under Title 11, and any and all proceedings arising under Title 11, be and hereby are referred to the bankruptcy judges of the District of Kansas for consideration and resolution consistent with the law.

Dated this 1st day of August, 1984.

2. **Hierarchy of Rules.**

The following hierarchy of rules underlie and aid the application of the statutory bankruptcy law:

The Federal Rules of Civil Procedure

The Federal Rules of Evidence

The Federal Rules of Bankruptcy Procedure

The Rules of Practice and Procedure of the United States District Court for the District of Kansas

The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas

Bankruptcy Court Standing Orders

Procedural Guidelines of Individual Bankruptcy Judges

The Federal Rules of Civil Procedure apply in bankruptcy adversary proceedings through Rule 7001 and in contested matters through Rule 9014 of *The Federal Rules of Bankruptcy Procedure*.

The Federal Rules of Evidence state in Rule 101: "These rules govern proceedings in the courts of the United States and before United States bankruptcy judges . . . to the extent and with the exceptions stated in rule 1101."

The following terms of Rule 83 subsection (1) of the *Federal Rules of Civil Procedure* permit district courts to enact local rules:

Each district court, acting by a majority of its district judges, may, after giving appropriate public notice and an opportunity to comment, make and amend rules governing its practice. A local rule shall

be consistent with but not duplicative of Acts of Congress and rules adopted under 28 U.S.C. ' 2072 and 2075, and shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments shall, upon their promulgation, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

(Emphasis added).

Accordingly, in Kansas the Court has enacted *The Rules of Practice and Procedure of the United States District Court for the District of Kansas* to assist litigants.

Next in the hierarchy are *The Federal Rules of Bankruptcy Procedure*. They find their source in 28 U.S.C. ' 2075 which provides:

> The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.
>
> Such rules shall not abridge, enlarge, or modify any substantive right.
>
> The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

Rule 9029(a)(1) of *The Federal Rules of Bankruptcy Procedure* authorizes the District Court to adopt local rules relating to bankruptcy:

> Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with but not duplicative of Acts of Congress and these rules and which do not prohibit or limit the use of Official Forms. Rule 83 F. R. Civ. P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F. R. Civ. P., to make and amend rules of practice and procedure which are consistent with but not duplicative of Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local Rules must conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

Rule 9009 of *The Federal Rules of Bankruptcy Procedure* fixes the responsibility for *Official Bankruptcy Forms:*

> The Official Forms prescribed by the Judicial Council of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code.

To effectuate *Federal Rule of Bankruptcy Procedure* 9029, Rule 83.8.12 of *The Rules of Practice and Procedure of the United States District Court* provides: "The Bankruptcy Court may adopt supplemental Local Rules not inconsistent with these District Court Rules, the Bankruptcy Rules, or Title 11 or Title 28 of the United States Code."

The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas flow from the outlined authorities and the efforts of the members of the Bankruptcy Rules Committee, which periodically reviews and revises the bankruptcy rules.

Bankruptcy Court Standing Orders supplement the rules on administrative issues primarily. The standing orders appear at the end of the rules, but there may be additional standing orders that are not published herein. Counsel can obtain any such additional standing orders from the Clerk of the Bankruptcy Court.

Procedural Guidelines of Individual Bankruptcy Judges are also published to aid counsel on procedural matters when practicing before a particular judge. Counsel may obtain the guidelines of a particular judge from the Deputy Clerk where the judge presides.

The Rules and Standing Orders can be electronically accessed through the court=s website and through PACER.

3. Applicability of District Court Local Rules

The bankruptcy court is a unit of the district court and these rules merely supplement the district court rules. This means counsel in bankruptcy proceedings must follow the district court rules relating to bankruptcy (D. Kan. Rules 83.8.1 through 83.8.13) and, where applicable, the other district court rules. Attorneys who are not admitted to practice before the federal courts in Kansas should note carefully and follow closely D. Kan. Rules 83.5.1 through 83.6.12 on the responsibility, registration, appearance, and withdrawal of counsel.

Finally, D. Kan. Rules 83.8.1 through 83.8.13 are devoted to bankruptcy topics on withdrawal of reference, removal, abstention, jury trial, and appeal of bankruptcy cases from the Bankruptcy Court to the 10th Circuit Bankruptcy Appellate Panel or the United States District Court.

LOCAL BANKRUPTCY RULES TABLE OF CONTENTS

SCOPE OF RULES

COMMENCEMENT OF CASE

ADMINISTRATION, NOTICING, AND PROFESSIONALS

CLAIMS, DISTRIBUTION, AND PLANS

DEBTOR DUTIES AND BENEFITS

COURTS AND CLERKS

COLLECTION AND LIQUIDATION

ADVERSARY PROCEEDINGS

APPEALS

GENERAL PROVISIONS

STANDING ORDERS

LBR 1001.1

SCOPE OF RULES; CITATION

(a) Authority. These supplemental rules are promulgated under the authority of Fed. R. Bankr. P. 9029 and D. Kan. Rule 83.8.12. To the extent not provided by more specific Fed. R. Bankr. P. or D. Kan. LBR, practice before this court is governed by applicable D. Kan. Rules. See D. Kan. Rule 83.8.2.

(b) Citation. These rules are cited as D. Kan. LBR 1001.1, e.g.

(c) Modification. These rules are, in special cases, subject to such modification as the court may deem necessary or appropriate to meet emergencies or to avoid injustice or great hardship.

LBR 1004.1

PARTNERSHIP AND CORPORATE PETITIONS

The petition of a partnership or corporation must not be combined with the petition of any individual or other entity.

LBR 1005.2

CAPTIONS; CASE NUMBERING SYSTEM

(a) Captions. In addition to meeting the requirements of Fed. R. Bankr. P. 1005 and Bankruptcy Official Form 16A or 16B, as applicable, the caption of each petition must state:

(1) the full and correct name of the debtor, whether individual, partnership, or corporation, e.g. John Quincy Smith, John Q. (MIO) Smith or John (NMN) Smith; and

(2) the debtor's social security number and/or taxpayer identification number, set out below the caption.

(b) Case Numbering System. Each case when filed is assigned a number by the clerk, which begins with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the individualized case number of five digits, followed by another hyphen and the chapter number of the case. The clerk may add a judge identifier code. The five-digit individualized case numbers are as follows:

- Wichita cases "1", e.g. 02-10001-7;
- Kansas City cases "2", e.g. 02-20001-11; and
- Topeka cases "4", e.g. 02-40001-13.

LBR 1006(b).1

FILING FEES

Installment payment of filing fees may be permitted by the court as provided by Fed. R. Bankr. P. 1006(b)(1). The clerk will not accept checks issued by a debtor for filing fees. The clerk must promptly advise a bankruptcy judge if a check given by an attorney for the debtor=s filing fee is not honored.

LBR 1007.1

INITIAL FILINGS

(a) Assembly of Petition and Accompanying Papers. Petitions, schedules and statements of affairs and lists of creditors must conform to the Official Bankruptcy Forms and be printed on one side of the paper only. All original documents and pleadings filed with the court must be 2-hole punched at the top and must **not** be stapled. Copies may be stapled together for distribution.

(1) Voluntary petitions and accompanying papers must be assembled in the following order:

(A) petition (including certified copy of corporate resolution in corporate cases);
(B) signature page;
(C) statement of financial affairs;
(D) declaration under penalty of perjury on behalf of a corporation or partnership (if applicable);
(E) exhibit A (if debtor is a corporation filing under chapter 11);
(F) list of creditors holding 20 largest unsecured claims (in chapter 11);
(G) schedules A through J;
(H) summary of schedules;
(I) declaration concerning debtor's schedules;
(J) chapter 7 individual debtor's statement of intention; and
(K) Rule 2016(b) statement of attorney compensation.

(2) The following documents must **not** be stapled to the petition:

(A) application to pay filing fees in installments (if applicable);
(B) matrix;
(C) matrix verification; and plan (if submitted when petition is filed in chapters 11, 12 and 13).

(b) Matrix. Every petition must be accompanied by a matrix in a form prescribed by the clerk and adopted by Standing Order 00-1. Names and complete addresses of creditors must be listed in alphabetical order. The first and succeeding pages of the matrix must list on the reverse side of the page the name of the debtor.

Every matrix, whether original or amended, must be signed and verified as provided in Fed. R. Bankr. P. 1008.

(c) Creditors' Schedules. Creditors must be listed alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If it is known that the account or debt has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of such assignee or agent must be set forth, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next succeeding entry. If the United States is listed

as a creditor, the agency must be noticed as provided by Standing Order 00-2.

(d) Schedule of Current Income and Expenses of Individual Debtors. Spousal income and expenditures must be completed in all cases filed by joint debtors and by a married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

(e) Copies. Unless otherwise ordered by the court, the combined number of the executed original and conformed copies of initiatory petitions and accompanying statements, lists and schedules is:

- **$** original and 3 copies in chapters 7 and 13;
- **$** original and 4 copies in chapter 12;
- **$** original and 5 copies in chapters 9 and 11.

LBR 1009.1

AMENDMENTS OF VOLUNTARY PETITIONS, LISTS OF CREDITORS, SCHEDULES AND STATEMENTS

(a) Caption Sheet. In addition to the requirements of Fed. R. Bankr. P. 1009, all amendments to a voluntary petition, list, schedule or statement must contain a caption sheet titled "AMENDMENT TO (name petition, statement, list, schedule or statement being amended)."

(b) Content of Amendments. An amendment to the list of creditors is limited to information pertaining to only the amended creditors.

(c) Noticing of Amendments. In addition to the requirements of Fed. R. Bankr. P. 1009, the clerk or such party as the court orders must forthwith mail to any creditor added by the amendment a copy of the initial notice of the meeting held under '341 of the Code, together with a statement advising of the amendment to the list of creditors and the date the amendment was filed.

(d) Signature. An amendment must be signed and verified in the same manner required for originals.

(e) Additional Filing Fees. An amendment to schedules or lists of creditors must be accompanied by the applicable filing fee as prescribed by the Administrative Office of the United States Courts as of the date of the filing of the amendment.

(f) Supplement to the Mailing Matrix. If an amendment contains an additional creditor, the debtor must submit a supplemental mailing matrix listing only the additional creditor, in the same manner required by D. Kan. LBR 1007.1.

LBR 1017.1

TRUSTEE'S DUTIES UPON CONVERSION

Upon conversion, an appointed trustee must furnish to the successor appointed trustee a copy of any documents in the trustee=s file necessary to efficient case administration, including:

- petition;
- schedules and statement of affairs;
- filed claims; and
- stay relief pleadings.

LBR 1072.1

COURT LOCATIONS

The United States Bankruptcy Court for the District of Kansas is in continuous session for transaction of judicial business on all business days throughout the year at the Kansas City, Topeka and Wichita Divisions. The court may conduct special sessions of court at other locations within the district.

LBR 1073.1

ASSIGNMENT OF CASES

(a) Initial Assignment of Cases. The clerk will assign cases to the Kansas City, Wichita and Topeka divisions, respectively, based on where the commencement filing is made.

(b) Reassignment of Cases. A bankruptcy judge, in the interest of justice or to further the efficient disposition of court business, may return a case in whole or in part to the clerk for reassignment to another bankruptcy judge as directed by the Chief Bankruptcy Judge.

(c) Judicial Business. Administration of the judicial business of the court is the responsibility of the Chief Bankruptcy Judge.

LBR 2002.1

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) General. Notices served by the clerk are generally mailed by the Bankruptcy Noticing Center (ABNC@).

(b) Undeliverable notices. A matrix that does not comply with the requirements of D.Kan. LBR 1007.1 and any applicable Standing Order may cause certain notices to be undeliverable by the BNC. The clerk, or some other person as the court may direct, will notify the debtor's attorney, or the debtor if not represented, of any undelivered notices, together with the underlying matrix deficiency (e.g. incomplete address, missing zip code). Within 5 days after notification, the debtor's attorney, or the debtor if not represented, must:

(1) file a corrected matrix;
(2) serve any undelivered notices to all parties not served by the BNC; and
(3) file a certificate of service of the same.

LBR 2014.1

APPLICATION FOR EMPLOYMENT OF PROFESSIONALS

(a) Trustee/Debtor-in-Possession's Application to Employ Attorney to Conduct Chapter 11 Case. [Fn1] Under ' 327 of the Code, a trustee/debtor-in-possession may employ attorneys to conduct the chapter 11 case. To do so, the trustee/debtor-in-possession must file *with the petition* an application to employ attorneys to conduct the case.

(1) The application must include the following information for *the firm and for each individual* attorney who will appear before the court in the conduct of the case:

(A) the attorney's name, address;

(B) specific facts showing the necessity for the employment;

(C) the reasons for the selection;

(D) the professional services to be rendered; and

(E) any proposed arrangement for compensation.

(2) The application must be accompanied by the statement of compensation paid or agreed to be paid required by ' 329 of the Code---Official Bankruptcy Form B203, Disclosure of Compensation of Attorney for Debtor.

(b) Accompanying Affidavit. The application must be accompanied by a separate affidavit signed by *each* individual attorney who will appear before the court in the conduct of the case, stating:

(1) that the attorney is disinterested;

(2) that the attorney does not hold or represent an interest adverse to the estate;

(3) a description of the inquiry made to determine that the attorneys who will appear before the court in the conduct of the case and all the members of the firm do not hold or represent an adverse interest to the estate and are disinterested persons;

(4) the firm's and the attorney's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee;

(5) the attorney understands that there is a continuing duty to disclose any adverse interest and change in disinterestedness; and

(6) the attorney understands that the court's approval of the application is not approval of any proposed terms of compensation and under ' 328(a) of the Code the court may allow compensation on terms different from those proposed.

(c) Notice and Certificate of Service. The application must be accompanied by a Notice with Opportunity for Non-Evidentiary Hearing or Notice with Objection Deadline in accordance with the noticing guidelines applicable to the division and judge to whom the case is assigned and must contain a certificate evidencing service of the application, the affidavits, and the notice upon the required parties.

(d) Service. The application, attorney affidavits, and notice must be served forthwith upon the following:

(1) the United States trustee;
(2) all creditors holding secured claims;
(3) all parties requesting notice; and
(4) any operating creditors' committee, or if none, upon the List of Creditors Holding 20 Largest Unsecured Claims--Official Bankruptcy Form 4.

(e) Objections. Interested parties must object to the application within 20 days. If no objection to the application is timely filed, the court may forthwith approve the attorney's employment to represent the trustee/debtor-in-possession.

(f) Proposed Order Approving Employment. The trustee/debtor-in-possession must submit with the application a proposed Order Approving Employment in accordance with the noticing guidelines for submission of orders applicable to the division and judge to whom the case is assigned. The proposed order must acknowledge that:

(1) the court's approval of an application in which a professional states an intention to be compensated at a specific hourly rate does not constitute approval of the hourly rate or other terms of compensation; and
(2) approval of the terms of compensation will be considered by the court when a final allowance of compensation is made.

(**g) Trustee's or Committee's Application to Employ Professionals Other Than Attorneys to Represent the Trustee/Debtor-in-Possession in Conducting a Chapter 11 Case.** Trustees or committees applying to employ firms of professionals or individual professionals (whether special counsel, accountants, appraisers, or otherwise) must also follow the application, service, notice and certification of service, objection, and proposed order procedures set forth above. Each individual professional (whether or not an attorney) seeking employment must file an affidavit containing the information required by subsection (a)(1).

(h) When a Chapter 7 trustee applies to appoint himself or herself as counsel for the estate, however, the notice required by paragraph (b) above may be restricted to the United States Trustee only.

[FN1] ' 327(e) of the Code recognizes the distinction between counsel employed "to represent the trustee in conducting the case" and other employed attorneys. This heading highlights this critical difference and sets out the mandatory steps for qualifying as counsel employed to represent the trustee in conducting the case.

LBR 2015(a).1

TRUSTEE COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS OF UNITED STATES TRUSTEE

Trustees must comply with all administrative reporting requirements of the United States trustee, including the types of reports to be filed, the contents of those reports, and the timing of filing the reports.

LBR 2016.1

MONTHLY COMPENSATION OF PROFESSIONALS

(a) Submission and Service. In a chapter 11 or 12 case, an attorney employed or seeking employment under ' 327 to conduct the case may file a separate motion to be paid fees and expenses on a monthly basis. The separate motion must state the filing date of the application to employ and, if applicable, the date an order granting the application to employ was entered of record. Motions for this relief may be denied in those cases in which the court sees questionable merit.

(b) Provisions for Payment of Fees and Expenses. The motion must state the percentage amount of fees and expenses the professional seeks to collect on a monthly basis. The motion may request that up to 100% of the fees and 100% of the expenses be paid on a monthly basis. However, the motion and the proposed order granting the motion must provide that in the event 100% of the fees are paid, the professional will hold no less than 20% of the fees in trust pending approval by the court of an interim or final fee application, unless otherwise ordered by the court.

(c) Service. The motion must be served with notice as provided by the noticing guidelines applicable to the division and judge to whom the case is assigned. Unless the court directs otherwise, the motion must be served on:

(1) the debtor;

(2) debtor=s counsel;

(3) the United States trustee;

(4) all creditors holding secured claims;

(5) all parties requesting notice; and

(6) any operating creditors= committee, or if none, the list of creditors holding 20 largest unsecured claims COfficial Bankruptcy Form 4.

(d) Order. With the separate motion, counsel must submit a proposed order in accordance with the court=s guidelines for submission of orders and it must state that the allowance of monthly payments of fees and expenses does not constitute an interim or final approval of the fees and expenses.

LBR 2090.1

ATTORNEYS - ADMISSION TO PRACTICE

(a) Admission of Attorneys. The bar of this court consists of those attorneys heretofore admitted to practice and in current good standing as members of the bar of the United States District Court for the District of Kansas and those attorneys hereafter admitted to practice before the district court or this court in accordance with D. Kan. Rules 83.5.1, through 83.5.4.

(b) Appearance *Pro Hac Vice*. D. Kan. Rule 83.5.4 applies to the attorneys of the court.

LBR 2091.1

PROFESSIONAL CONDUCT

D. Kan. Rules 83.5.4 through 83.6.12 apply to the attorneys of the court.

LBR 3001.1

CLAIMS

(a) Copies of Claims/Service. A proof of claim must be filed in duplicate. Claimants in chapters 11, 12 and 13 must send a copy of the proof of claim to debtor's counsel, or to the debtor if not represented, at the time of filing.

(b) Withdrawal of Written Instruments Filed with Claims. Written instruments or other papers filed with a proof of claim may be withdrawn upon request of the claimant provided the request is accompanied by photostatic or other exact copies of the papers to be withdrawn. If the papers are negotiable instruments, the originals must be stamped with a statement indicating they were filed in support of a claim and showing the name, case number and the date the claim was filed.

(c) Secured and Unsecured Claims. A proof of claim must indicate whether the claim is secured, unsecured, or if both, must specify the respective amounts claimed. The claim may include proposed amounts for secured and unsecured claims and must clearly indicate that it includes a proposed amount.

(d) Amendment to Claim in Chapter 7. A proof of claim, other than a priority claim, may be amended anytime prior to notice of final distribution by the case trustee, but not thereafter. A priority claim may be filed or amended at any time before the trustee commences distribution. If the case trustee has not objected to secured claims, he or she must give 20 days notice to all parties who have filed secured claims of his intent to file and serve a notice of final distribution.

(e) Filing of Requests for Administrative Expenses in a Chapter 7 Case. A request for payment of administrative expenses must be filed prior to the notice of final distribution by the case trustee.

LBR 3015(b).1

CHAPTER 13 PLAN

(a) Filed with Petition. A chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation by the Bankruptcy Noticing Center ("BNC").

(b) Filed after Petition. A plan filed after the petition must be served, together with notice of the time for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented. A certificate of service must be filed within 5 days of service.

(c) Failure to File. Unless an extension has been obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to ' 341 of the Code will result in dismissal of the case for unnecessary delay without further notice to the debtor or counsel.

LBR 3022.1

FINAL DECREE IN CHAPTER 11 REORGANIZATION CASE

(a) Timing. Within 3 months after the order of confirmation is entered, the plan proponent must file an application for a final decree, or show cause why the final decree cannot be entered. If an application is not filed within 3 months, a status report must be filed every 6 months thereafter until entry of the final decree.

(b) Content. The application for final decree must show that the estate has been fully administered and must include information concerning:

(1) the date the order confirming the plan became final;

(2) whether deposits required by the plan have been distributed;

(3) whether the property proposed by the plan to be transferred has been transferred;

(4) whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;

(5) whether payments under the plan have commenced; (6) whether all motions, contested matters and adversary proceedings have been finally resolved;

(7) whether all fees due under 28 U.S.C. ' 1930 have been paid;

(8) a summary of professional fees awarded in the case;

(9) the percentage paid to unsecured creditors; and

(10) other facts as may be necessary to enable the court to pass on the provisions to be included in the final decree.

(c) Notice. The applicant must give 30 days notice to the following in accordance with the noticing guidelines provided by the clerk:

(1) all parties requesting notice;

(2) the United States trustee; and

(3) all creditors= committees, or if none, creditors holding the largest 20 unsecured claims.

LBR 4001(a).1

STAY RELIEF

(a) Adequate Protection. A motion for stay relief may be combined with a request for adequate protection.

(b) Waiver. The following constitutes a voluntary waiver of the 30 day requirement for a hearing contained in '362(e) of the Code:

(1) the motion for stay relief includes a request for any other relief;

(2) movant sets a motion for stay relief, pursuant to D. Kan. LBR 9013.2 for a docket more than 30 days from the filing of the motion, which is considered a preliminary hearing under that section; and

(3) movant fails to request that the final hearing be concluded within 30 days of the preliminary hearing.

(c) Effect of Debtor=s Stated Intent to Surrender Property. So long as an individual chapter 7 debtor=s Statement of Intention (Official Bankruptcy Form 8) indicating an intent to surrender property that secures a debt owed to a creditor has not been amended or withdrawn, the debtor will be deemed to have agreed to the specified creditor=s stay relief motion concerning that property. When a stay relief motion clearly informs the Clerk=s Office that it is being filed pursuant to this provision, the filing fee shall be the same as for a motion for approval of an agreement or stipulation for stay relief. A creditor that files a stay relief motion pursuant to this provision must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure.

LBR 4001(a).2

EFFECT OF AUTOMATIC STAY IN CHAPTER 12 AND 13 CASES ON INCOME WITHHOLDING ORDERS FOR CHILD SUPPORT

(a) Income Withholding Orders for Current Child Support. Unless the debtor files along with the petition a motion pursuant to paragraph (c), the automatic stay imposed by '362(a) of the Code does not affect current child support orders enforced by income withholding orders on the date the bankruptcy petition is filed, whether imposed or voluntary.

(b) Income Withholding Orders for Past Due Child Support. The automatic stay remains in force as it pertains to past- due child support enforced through an income withholding order, whether imposed or voluntary, on the condition that the debtor=s plan specifically addresses and treats the debtor=s obligation to pay past-due child support.

(c) Termination of Income Withholding Orders. Termination of an income withholding order that enforces a current child support obligation must be made by motion that sets out specific grounds justifying the termination of the withholding order and the continued application of the automatic stay. If the motion is denied, the prevailing party may be awarded reasonable costs, fees, and expenses incurred in opposing the motion, as authorized by applicable rule or statute.

(d) No Income Withholding Order. Nothing in this rule affects the obligation of a debtor to pay child support not being collected by an income withholding order.

LBR 4002.1

TRUSTEE REQUESTS FOR INFORMATION FROM DEBTORS

(a) Compliance with Trustee's Request. A debtor must promptly comply with a request for information made by a case or standing trustee or the United States trustee. No later than 15 days after service of any written request, a debtor must:

(1) serve on the trustee an appropriately executed writing containing the information requested; or

(2) serve on the trustee and file with the court a written objection, a copy of the request, and a request for a hearing.

(b) Filing of Requests and Responses. The trustee must not file copies of the requests with the court unless the debtor fails to comply with this rule and the trustee requests the court to compel compliance. The debtor must not file copies of responses with the court unless the responses are in the form of an amendment to the statements of affairs, schedules, monthly financial statements or as otherwise required.

LBR 4002.2

EVIDENCE OF INCOME IN CHAPTER 13

In all cases filed under or converted to Chapter 13, the debtor must bring to the meeting of creditors held under '341 of the Code, copies of the most recent 2 years of Federal and State income tax returns and current pay stubs or other evidence of current income for the period of time from 30 days prior to filing of the case to the date upon which the '341 meeting is held.

LBR 4002.3

DELINQUENT TAX RETURNS

(a) Duty to File Returns. In all cases debtors must file tax returns for all pre-petition periods within 75 days of the date of filing the petition or by the due date of the return, if later. This rule does not apply, however, to income tax returns that are due more than 3 years before the date of the petition.

(b) Place of filing.

(1) The original of all federal tax returns filed as required by section (a) and all post-petition federal returns coming due prior to confirmation of any plan must be filed with:

Internal Revenue Service
Special Procedures Branch
271 W 3rd Street N Suite 3000
STOP 5333 WIC
Wichita Kansas 67202

A signed copy of each return must be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.

(2) Except as required by paragraph (b)(3), the original of all state of Kansas tax returns filed as required by section (a) and all post-petition state of Kansas tax returns coming due prior to confirmation of any plan must be filed with:

Kansas Department of Revenue
Civil Tax Enforcement
P 0 Box 12005
Topeka KS 66612-2005

(3) The original of all state of Kansas unemployment tax returns filed by a Kansas employer, as required by paragraph (a) and all post-petition state of Kansas unemployment tax returns coming due prior to confirmation of any plan must be filed with:

Kansas Department of Human Resources
Attn Delinquent Account Unit
401 Topeka Blvd
Topeka KS 66603-3182

(c) Dismissal for Non-Filing. If any pre-petition return remains unfiled after expiration of the 75 day period or the due date, the taxing authority may file a Notice of Dismissal for Non-Filing of Tax Returns with Objection Deadline and serve copies on the trustee, debtor, and the debtor's attorney. The Notice must be accompanied by a Notice With Opportunity for Hearing in Compliance with the Court=s Motions Docket Instructions, setting forth the exact date for the filing of objections to dismissal and stating the date and time the matter will be heard by the court. If no objection is filed, or if the court determines dismissal

is warranted after hearing as provided for in section (d) below, the court will dismiss the case without prejudice, unless the court determines that the circumstances warrant dismissal with prejudice.

(d) Hearing on Objection to Dismissal. The debtor or trustee may, on or before the objection deadline set out in the Notice With Opportunity for Hearing, file and serve a written objection to dismissal of the case upon the taxing authority and the U.S. Attorney's Office located in the city where the bankruptcy case is filed if the tax return at issue is a federal tax and the Kansas Department of Revenue if the tax return at issue is a Kansas State return. The objection must state good cause as to why the case should not be dismissed and, if filed by the debtor, good cause why the past due returns have not been timely filed. In the event an Objection to Dismissal is timely filed by the debtor or trustee, the matter will be heard by the court at the date and time set forth in the Notice of Non-Filing of Tax Returns With Objection Deadline required by section(c) above.

LBR 4003(a).1

TIME LIMITS FOR AVOIDANCE OF LIENS ON EXEMPT PROPERTY IN CHAPTER 7

A motion to avoid a judicial lien or a non-possessory, non-purchase money security interest against exempt property as authorized by '522(f) of the Code must be filed not later than 60 days from the first date set for the meeting of creditors held under '341 of the Code. If the exemption is allowed after the 60 day period, the motion must be filed not later than 30 days from the date the exemption is allowed. Except for cause shown, a motion filed thereafter is untimely. This rule does not affect the application of '521 of the Code in consumer cases.

LBR 4070.1

INSURANCE ON MOTOR VEHICLES

(a) Definitions.

(1) AMotor vehicle@ includes, but is not limited to, any automobile, motorized mobile home or house trailer designed for travel on the public highways and/or capable of travel on the public highways.

(2) AProof of insurance@ means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier stating that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which such coverage exists.

(b) Proof of Insurance. Proof of insurance against physical damage and loss for any motor vehicle belonging to or leased by the debtor or the estate which is subject to the lien of a creditor holding an allowed secured claim must be furnished to the trustee and the creditor at or before the meeting held under '341 of the Code or upon written demand as hereinafter provided. Failure to immediately furnish proof of insurance is presumed to mean no insurance is in effect. Any written "binder" must be followed by proof of permanent insurance.

(c) Termination of Insurance. If during the pendency of a case, insurance is canceled, not renewed, expires or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) Notice of Intent. A creditor with an allowed claim secured by the motor vehicle for which insurance has been terminated, as hereinbefore defined or has received notice of the insurer's intent to terminate insurance for any reason hereinbefore defined, must notify, in writing, the debtor, the debtor's attorney and the trustee of the termination, or notice of intent to terminate insurance. Service of notice upon the debtor and the debtor=s attorney must be in the manner specified in Fed. R. Bankr. P. 7004(b)(9).

(2) Injunction. The debtor is enjoined from using the motor vehicle for which insurance has, in fact, been terminated as long as the motor vehicle remains uninsured.

(3) Possession. If the debtor fails to provide proof of reinsurance to the creditor within 5 business days following delivery of the notice provided in subsection (c)(1), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor or the creditor may take possession of the motor vehicle securing its claim and hold it pending presentation of proof of insurance by the debtor.

(4) Motion for relief from stay. Within 5 days after taking possession of a motor vehicle, the creditor must file with the court a motion for relief from the automatic stay under '362 of the Code.

(d) Subsequent Termination. In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, upon the filing of a motion in accordance with section (c)(4) hereof accompanied by an affidavit evidencing compliance by the creditor with the provisions of this Rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

LBR 5003.1

ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the clerk=s office during normal business hours.

(b) Copies. The clerk will make and furnish copies, as time permits, of official public court records upon request and payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not classed as public records within the meaning of this rule.

(d) Search for Cases by the Clerk. The clerk=s office is authorized to make a search of the most recent 10 years of the master index maintained in the office, and to issue a certificate of the search. The clerk will charge in advance a fee for each name for which a search is conducted, as prescribed by the Administrative Office of the United States Courts.

LBR 5003.2

WITHDRAWAL OF COURT RECORDS

(a) Case files. A bankruptcy case file may not be withdrawn.

(b) Exhibits. Exhibits introduced into evidence may be withdrawn from the custody of the clerk with the clerk=s permission or upon order of the court. Any exhibit not withdrawn after final disposition of the proceeding may be destroyed or otherwise disposed of by the clerk.

LBR 5072.1

COURTROOM PRACTICES

(a) Addressing the Court. Attorneys or pro se litigants must rise when addressing the court, must make all statements to the court from the counsel table or the lectern facing the court and must not approach the bench, except upon the permission of the court.

(b) Questioning Witnesses. While questioning witnesses, attorneys or pro se litigants must stand at the counsel table or at the lectern and must not approach the witness except with the court's permission. Only one attorney for each party may participate in the examination or cross examination of a witness.

LBR 5074.1

GENERAL RULE ON DOCUMENTS TRANSMITTABLE BY FACSIMILE FILING

(a) General. In case of emergency, and only with prior permission of the judge to which the case or adversary proceeding has been assigned, parties may transmit **only** the following documents by facsimile:

(1) a brief;
(2) list of witnesses;
(3) exhibits; and
(4) a motion for extension of time.

(b) Original documents, filing. Within 48 hours of the initial transmission of a document by facsimile, the original documents, with all necessary signatures, must be physically delivered to the clerk. When the rules require the filing of multiple copies of a document, only one copy must be transmitted by fax. Additional copies must be delivered at the time the original document is tendered for filing. Upon receipt, the clerk must file the original documents as of the date the facsimile transmission was received.

(c) Method of facsimile transmission. All facsimile transmissions must be on the highest resolution mode in order to transmit a clear copy. The document transmitted must be sent in reverse page order so that it emerges in correct page order.

(d) Signatures. The originals of a facsimile transmission must be signed by the party or attorney transmitting the document. A signature on a facsimile document is subject to Fed. R. Civ. P.11 and Fed. R. Bankr. P. 7011 and 9011.

(e) Service. At the same time a document is transmitted by facsimile to the court the sender must transmit it by facsimile on all other parties in the case. Any period which runs from the date of transmission must be calculated as if the document were hand-delivered. If a party to whom a document is to be sent does not have a facsimile machine, the party responsible for service must arrange for physical delivery of the document not later than the next calendar day following the initial facsimile transmission to the court.

(f) Risk of Transmission Errors. The party transmitting a document by facsimile assumes the risk of nonreceipt or the receipt of an unintelligible copy.

(g) General Policy. The United States Bankruptcy Court for the District of Kansas recognizes that facsimile transmission may greatly facilitate the transmission of documents between and among parties to pending cases. However, since many lawyers and individuals do not possess facsimile machines and there are substantial questions concerning the accuracy, timeliness and authenticity of facsimile transmissions, the court will authorize use of facsimile transmission for non dispositive pleadings only for good cause shown.

LBR 5075.1

ORDERS GRANTABLE BY BANKRUPTCY CLERK; REVIEW

(a) Orders.

(1) the clerk is authorized to grant the following orders without further direction by the court:

(A) in adversary proceedings, an order extending once for 10 days, the time within which to answer, reply or otherwise plead to a complaint, cross-claim or counterclaim if the time originally prescribed to plead has not expired;

(B) an order for the payment of money on consent of all interested parties;

(C) a consent order for the substitution of attorneys;

(D) in adversary proceedings, a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1;

(E) in adversary proceedings, entry of default and judgment by default as provided for in F. R. Bankr. P. 7055; and

(F) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) any order submitted to the clerk under this rule must be signed by the party or attorney submitting it, and is subject to the provisions of Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

(3) any order submitted to the clerk for an extension of time under paragraph (a) must state:

(A) the date when the time for the act sought to be extended is due;

(B) the date to which the time for the act is to be extended; and

(C) that the time originally prescribed has not expired.

(b) Action Reviewable. Any order entered by the clerk under this rule may be suspended, altered or rescinded as authorized by Fed. R. Bankr. P. 9024.

LBR 6004.1

PERSONS PROHIBITED FROM PURCHASING AT SALES

(a) Judges/Clerks. No person who is currently serving as a bankruptcy judge, or clerk or their employees and spouses may directly or indirectly purchase property from any bankruptcy estate. No former bankruptcy judge or clerk nor any former member of their staffs may purchase property directly or indirectly from any bankruptcy estate pending at the time the person left office.

(b) Other Officers.

(1) Current service. No person who is currently serving as trustee, examiner, appraiser, auctioneer, accountant, realtor or attorney for a bankruptcy estate, their employees and spouses and the spouses of their employees may directly or indirectly purchase property from any bankruptcy estate pending while the person is serving.

(2) Former Service. No person who has served as a trustee, examiner, auctioneer, accountant, realtor or attorney for a bankruptcy estate and no spouse or employee of such persons may purchase directly or indirectly property from a bankruptcy estate pending at the time the person ceased service.

LBR 6007.1

ABANDONMENT OF PROPERTY OF THE ESTATE

Within 60 days from the date set for the meeting of creditors held under '341 of the Code, the trustee may file notice of intended abandonment of any or all of the debtor's non-exempt property of the estate as authorized by '554 of the Code without service on creditors except as noticed in case commencement. Unless a creditor objects to abandonment within 75 days from the '341 meeting date, the property will be deemed abandoned without further notice or order of the court.

LBR 6008.1

REDEMPTION OF EXEMPT/ABANDONED PROPERTY IN A CHAPTER 7 CASE

(a) Exempt Property. A motion to redeem exempt property as authorized by '722 of the Code must be filed not later than 60 days from the first date set for the meeting of creditors held under '341 of the Code. If the trustee recovers exempt property that the debtor is entitled to exempt, the motion must be filed not later than 15 days after the property is deemed exempt. Except for cause shown, a motion filed thereafter is untimely. This rule does not affect the application of '521 of the Code in consumer cases.

(b) Abandoned Property. A motion to redeem abandoned property as authorized by '722 of the Code must be filed not later than 60 days from the first date set for the meeting of creditors held under '341 of the Code. If the trustee has not abandoned the property within that time, the motion must be filed not later than 15 days after abandonment. Except for cause shown, a motion filed thereafter is untimely. This rule does not affect the application of '521 of the Code in consumer cases.

LBR 7003.1

COMMENCEMENT OF ADVERSARY PROCEEDING

(a) Cover Sheet. An Adversary Proceeding Cover Sheet, in a form supplied by the clerk, must be completed and submitted with each complaint commencing an adversary proceeding. See Fed. R. Bankr. P. 7003.

(b) Case Number System. Upon filing, an adversary proceeding will be assigned a number by the clerk that begins with a two-digit indicator of the year in which the proceeding was filed followed by a hyphen and the individualized case number of four digits. The four-digit individualized case numbers are as follows:

- **$** Wichita proceedings begin with a "5" (e.g., 99-5001);
- **$** Kansas City proceedings begin with a "6" (e.g., 99-6001);
- **$** Topeka proceedings begin with a "7" or an "8" (e.g., 99-7001).

LBR 7004.1

SERVICE OF SUMMONS AND COMPLAINT ON THE UNITED STATES

In addition to any service required by rule or statute, in all cases in which the United States and/or a department, agency or instrumentality of the United States is named as a party defendant service of any summons or complaint must be made on the United States Attorney's Office located in the division headquarters city in which the petition for relief has been filed and also upon the department, agency or instrumentality as prescribed by Standing Order 00-2.

LBR 7026.1

DISCOVERY

(a) Application. This rule applies in adversary proceedings and contested matters as provided by Fed. R. Bankr. P. 9014 or order of the court. Except as specifically provided by order of the judge presiding over a particular matter, the provisions of Fed. R. Civ. P. 26(a) and (f), and corresponding sections of this rule, do not apply to contested matters.

(b) Completion Time. Discovery should be completed within 4 months after the case becomes at issue, or within 4 months after a scheduling order is issued pursuant to Fed. R. Bankr. P. 7016. The court, for good cause shown, may establish longer or shorter periods for the completion of discovery.

(c) Notice of Depositions. The reasonable notice provided by Fed. R. Civ. P. 30(b)(1) for the taking of depositions is 5 days. The court, for good cause shown, may enlarge or shorten time. Fed. R. Bankr. P. 9006 governs the computation of time.

(d) Motions for Protective Order. A motion for protective order filed pursuant to Fed. R. Bankr. P. 7026(c) or 7030(d) stays the discovery at which the motion is directed pending order of the court. A motion to quash or modify a deposition subpoena filed pursuant to Fed. R. Bankr. P. 9016 stays the deposition at which the motion is directed. No properly noticed deposition is automatically stayed under this rule unless the motion directed at it is filed and served upon counsel or parties by delivering a copy within 10 days after service of the deposition notice, and at least 48 hours prior to the noticed time of the deposition. Pending resolution of any motion which stays a deposition under this rule, neither the objecting party, witness, nor any attorney will be required to appear at the deposition to which the motion is directed until the motion has been ruled upon or otherwise resolved.

(e) Additional Interrogatories to Those Permitted by Fed. R. Bankr. P. 7033(a). Requests for leave to serve additional interrogatories to those permitted by Fed. R. Bankr. P. 7033(a) must be by motion that sets forth the proposed additional interrogatories and the reasons establishing good cause for their service and is subject to the provisions of subsection (j) of this rule.

(f) Format for Interrogatories. Sufficient space for the insertion of an answer must be left following each interrogatory served pursuant to Fed. R. Bankr. P. 7033. Each answer must be preceded by the interrogatory being answered.

(g) Motions Relating to Discovery. Motions under Fed. R. Bankr. P. 7026(c) or 7037(a) directed at interrogatories, requests for production of documents, or requests for admissions under Fed. R. Bankr. P. 7033, 7034 or 7036, or at the responses thereto, must be accompanied by copies of the portions of the interrogatories, requests or responses in dispute.

(h) Depositions. Depositions must not be filed with the clerk unless ordered by the court. The originals of all stenographically reported depositions will be delivered to the party noticing the deposition, (1) upon signature by the deponent, or (2) upon completion if

signature is waived on the record by the deponent and all interested parties; or (3) upon certification by the shorthand reporter that following reasonable notice to the deponent and deponent's counsel of the availability of the transcript for signature, the deponent failed or refused to sign it. The original of the deposition must be retained by the party to whom it is delivered to be available for appropriate use by any party in a hearing or trial of the case.

(i) Disclosures and Discovery Not to be Filed.

(1) the following disclosures and discovery and the responses thereto must be served upon other counsel or parties, if not represented by counsel, but must not be filed with the clerk:

(A) disclosures required under Fed. R. Bankr. P. 7026(a)(1) and (2);

(B) interrogatories under Fed. R. Bankr. P. 7033;

(C) requests for production or inspection under Fed. R. Bankr. P. 7034; and

(D) requests for admission under Fed. R. Bankr. P. 7036.

(2) a party serving disclosures and discovery must at the time of service file with the clerk a certificate of service stating the type of disclosure or discovery or response served, the date and type of service, and the party served.

(j) Use of Discovery at Trial. If depositions, interrogatories, requests for production or inspection, or admissions, or responses thereto are to be used at trial, the portions to be used must be filed with the clerk at the beginning of trial insofar as their use reasonably can be anticipated.

(k) Duty to Confer Concerning Discovery Disputes. In addition to the duties to confer set out in Fed. R. Bankr. P. 7026 through 7037, unless otherwise ordered, the court will not entertain any motion to quash or modify a subpoena pursuant to Fed. R. Bankr. P. 9016, or any motion under Fed. R. Civ. P. 26(c) or 37(a) unless counsel for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Bankr. P. 7026(c) and 7037 and this rule related to the efforts of the parties to resolve discovery or disclosure disputes must describe the steps taken by all counsel to resolve the issues in dispute.

(l) Trial Preparation After Close of Discovery. As authorized by Fed. R. Bankr. P. 7035, the physical or mental examination of a party may be ordered at anytime prior to trial. Ordinarily, the deposition of a material witness not subject to subpoena should be taken during the discovery period. However, the deposition of a material witness who agrees to appear at trial, but who later becomes unable or refuses to attend, may be taken at anytime prior to trial.

LBR 7041.1

DISMISSAL OF BANKRUPTCY CODE ' 727 COMPLAINTS OBJECTING TO DISCHARGE

(a) Affidavits as to Consideration. A motion for dismissal of a complaint objecting to discharge under ' 727 of the Code must be accompanied by affidavits executed by the plaintiff and the debtor stating that no consideration has been promised or given to effect the withdrawal of the complaint, or, if any consideration has been promised or given, the nature and amount thereof.

(b) Trustee's Motion to Intervene. If the case trustee or the United States trustee objects to dismissal of the complaint, the case trustee or the United States trustee must, within 15 days after notice under Fed. R. Bankr. P. 7041, serve on the parties to the complaint and file with the court a motion to intervene and be substituted as plaintiff.

LBR 7054.1

TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. The party in favor of whom costs have been allowed under Fed. R. Bankr. P. 7054(b) must file a bill of costs on the form provided by the clerk within 30 days: (1) after the expiration of time allowed for appeal of a final order; or (2) after the clerk receives an order terminating the action on appeal. The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.

(b) Date for Presentation. Before filing a bill of costs, the prevailing party must obtain from the clerk a date for presentation of the bill of costs so that adverse parties may be notified when to appear to contest the bill.

(c) To Whom Payable. All costs taxed are payable directly to the party entitled thereto and not to the clerk.

LBR 7056.1

MOTIONS FOR SUMMARY JUDGMENT

(a) Memorandum in Support. The memorandum or brief in support of a motion for summary judgment must begin with a section that contains a concise statement of material facts as to which the movant contends no genuine issue exists. The facts must be numbered and refer with particularity to those portions of the record upon which the movant relies.

(b) Memorandum in Opposition. A memorandum in opposition to a motion for summary judgment must begin with a section that contains a concise statement of material facts that the party contends a genuine issue exists. Each fact in dispute must be numbered by paragraph, refer with particularity to those portions of the record upon which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed. All material facts set forth in the statement of the movant will be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party. The statements required by this subsection are in addition to the material otherwise required by these rules and the applicable Fed. R. Bankr. P.

(c) Supporting Affidavits. All facts on which a motion or opposition is based must be presented by affidavit or declaration under penalty of perjury. Affidavits or declarations must be made on personal knowledge and by a person competent to testify to the facts stated, which are admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached.

LBR 7065.1

RESTRAINING ORDERS AND TEMPORARY INJUNCTIONS IN ADVERSARY ACTIONS

A prayer for a temporary injunction or restraining order set forth in an adversary complaint pursuant to Fed. R. Bankr. P. 7001 is not sufficient to bring the issue before the court prior to trial. If a ruling before trial is desired, it must be sought by separate motion within the adversary proceeding.

LBR 8006.1

RECORD AND ISSUES ON APPEAL

(a) Designation of Record. Upon filing the notice of appeal, the appellant must file by formal pleading within 10 days from the appeal file date, a designation of the items to be included in the record on appeal and a statement of issues. The designation of the record must set forth the pleading numbers and file date of those pleadings designated in the record on appeal. Parties must perfect their appeal pursuant to Fed. R. Bankr. P. 8006.

(b) Copies. Any party filing a designation of the items to be included in the record on appeal must provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk will prepare the copy at the expense of the party. The appellant must not file documents in his or her possession; such copies must be made from original papers filed with the court, which are part of the official record of the case. This may be accomplished at a reduced cost by using the vendor copier located in the public area of the clerk=s office.

LBR 9004.1

FORM OF PLEADINGS AND PAPERS

(a) Pleadings, Motions, Briefs and Other Papers. Pleadings, motions, briefs, and other papers submitted for filing, including all exhibits and/or attachments, must be typewritten, printed or computer-generated on letter-size paper. All original documents and pleadings filed with the court must be 2-hole punched at the top and should not be stapled. Copies may be stapled together for distribution. All written, printed or computer-generated documents must be double-spaced with no smaller than 10 point type set no more than an average of 12 characters per inch. All pleadings and papers filed subsequent to those commencing a case must be endorsed on the upper right-hand corner of the first page with the case number. The title of the subsequent pleading or paper should describe the contents thereof, and state on whose behalf the document is filed. Fed. R. Bankr. P. 7010 and Official Bankruptcy Form 16C apply to all pleadings and papers filed in adversary proceedings.

(b) Orders. Unless the court directs otherwise, orders resulting from an actual hearing are due 10 days from the date of the hearing. Orders resulting from a notice with an objection deadline where no actual hearing was held are due 10 days after the expiration of the objection deadline.

If an order results from an actual hearing, the first paragraph of the order must begin with the date of the hearing, such as: ANow on this____day of _____, 200_, this matter came before the court. . . .@ The actual date of the hearing must be substituted for the blanks, however.

If an order results from a notice with opportunity without a hearing, the first paragraph of the order must begin by stating that the matter was noticed with opportunity for hearing but no objections were filed and no hearing was held.

The following information must appear at the top of the signatory page of all orders: (1) the name of court; (2) the case caption, the case number and chapter; and (3) the caption of the order and page number.

So orders can be dated when signed, all orders must include the following legend just prior to the judge=s signature block without the date filled in: ADated this _____ day of _____, 200__."

(c) Requests for Relief in Pleadings. To assist the Clerk, you must state the requested relief in the pleading caption. To avoid multiplicity, pleadings must not contain unrelated requests for relief. For example, a motion for relief from automatic stay could request adequate protection, but it should not request remote relief, such as a request to dismiss the case. Nor should a request for relief be included in a responsive pleading except as permitted by *Federal Rules of Bankruptcy Procedure*. For example, a pleading captioned AObjection to Plan and Motion to Dismiss Case@ should not be offered because the objection is a responsive pleading and the motion to dismiss seeks new relief.

(d) Orders Addressing Requests for Relief. Orders resolving pleadings must

address all the requests for relief made in the pleading and, to assist the Clerk with docketing, must identify in the caption of the order the relief granted and/or denied.

LBR 9010.1

APPEARANCE BY CORPORATIONS, PARTNERSHIPS AND ENTITIES OTHER THAN INDIVIDUALS

A corporation, partnership, or entity other than an individual may appear and participate only through an attorney in an adversary, contested matter or other court hearing involving the questioning of a witness or a presentation to the court. This rule does not prohibit a corporation, partnership, or other entity from acting without an attorney in filing a claim, voting to elect a trustee, serving on an approved committee, or filing an acceptance/rejection of a plan under chapters 11, 12 or 13 of the Code.

LBR 9011.3

SANCTIONS

(a) Sanctions Under Applicable Rules and Statutes.

(1) On Court's Own Initiative. The court, upon its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, Fed. R. Bankr. P. 9011, or other applicable statutes. The court must state the reasons therein for issuing the show cause order. Unless otherwise ordered, all parties may respond within 10 days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(2) On a Party's Motion. The issue of sanctions may be raised by a party's timely filed motion and responded to in the same manner as specified above.

(3) Procedure. The court may rule forthwith on either or both of the issues of violation of the nature and extent of any sanction imposed as raised in its order to show cause or a party's motion and responses thereto. Discovery and evidentiary hearings on the question of sanctions will be permitted only when ordered by the court. In ruling on the imposition of sanctions, the court must articulate the factual and legal bases for its decision.

(b) Imposition of Sanctions. The court may make such orders as are just under the circumstances of the case for violation of a local rule or order of the court, including the following:

(1) an order that designated matters or facts is taken as established for purposes of the action;

(2) an order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting the party from offering specified witnesses or introducing designated matters in evidence;

(3) an order striking out pleadings or parts thereof, or staying proceedings until the rule is complied with, or dismissing the action or any part thereof, or rendering a judgment by default against the failing party; or

(4) an order imposing costs, including attorney's fees, against the party, or the party's attorney, who has failed to comply with a local rule.

(c) Sanctions Within the Discretion of the Court. The imposition of sanctions for violation of a local rule or order is discretionary with the court. In considering the imposition of sanctions, the court may consider whether a party's failure was substantially justified or whether other circumstances made the imposition of sanctions inappropriate.

LBR 9011.4

SIGNATURES

(a) Signing of Pleadings. The original of every pleading, motion or other paper filed by an attorney must bear the genuine signature of at least one attorney of record. The original of every pleading, motion or other paper filed by a party not represented by an attorney must bear the genuine signature of the pro se party. Stamped or facsimile signatures on original pleadings, motions or other papers filed are not permitted.

(b) Telephone Numbers and Addresses. A party or attorney signing papers submitted for filing must include an address and telephone number. An attorney must include his or her state supreme court registration numbers or in cases where the attorney is not admitted to practice in Kansas, its equivalent. Each attorney or party appearing pro se is under a continuing duty to notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or a party appearing pro se is sufficient notice.

LBR 9013.1

BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court must contain:

(1) a statement of the nature of the matter before the court;

(2) a concise statement of the facts supported by reference to the record in the case;

(3) a statement of the question or questions presented; and

(4) the argument, which must refer to all statutes, rules and authorities relied upon.

(b) Citation of Unpublished Decisions. Unpublished decisions may be cited only if furnished to the court and to opposing parties or their counsel when the memorandum is filed. Unpublished decisions are cited as follows: In re Smith, No. 89-10001-7 (Bankr. D. Kan. Feb. 1, 1989).

(c) Additional Copies of Briefs for Court. At the time the original of a brief is filed, a working copy of the brief for use by the judge must be delivered to the clerk or to the judge.

LBR 9013.2

MOTIONS PRACTICE

(a) Hearing Docket. A bankruptcy judge may establish a regularly scheduled docket for non-evidentiary hearing on motions. A motion may be set on such docket by filing with the motion a separate notice of hearing clearly stating the hour, date and location of such hearing. A certificate of service must be filed for the motion and notice indicating service on required parties. It is the responsibility of the movant to determine (1) whether a bankruptcy judge has established a docket as provided by this rule, and (2) the correct hour, date and location of hearing as so established.

(b) Time. Except for cause shown, a motion filed less than 10 days before hearing may not be considered by the court. Motions which require more than 10 days notice under the Code, the Fed. R. Bankr. P. or these rules must comply with this requirement.

(c) Notice with Objection Deadline. Where otherwise allowed by the Code, the Fed. R. Bankr. P., or these rules, a motion may be filed with a separate notice of objection deadline. The notice may provide for hearing on any objection in accordance with this rule.

(d) Waiver of Briefs in Support of Motions. Briefs and memorandum in support of motions are prohibited unless required by the court notwithstanding D. Kan. 7.1(a).

(e) Limit on Replies. No more than one response to a motion and one reply to a response, as allowed by D. Kan. 7.1(b), can be filed without prior order of the court.

(f) Preparation of Motions and Orders. Motions and orders shall be prepared and submitted in accordance with D. Kan. LBR 9004.1.

LBR 9013.3

PROOF OF SERVICE

(a) Certificate of Service. Except as otherwise provided by order of the court or by rule, proof of service of any pleading, motion, or other paper required to be served must be made by a certificate of an attorney of record. Such certificate must be either endorsed upon the pleading or paper served or filed separately as soon as possible, and in any event before any action based upon the service is requested or taken by the court.

(b) Identify Title. In addition to showing the date, the manner of service, and the names and addresses of the persons receiving service, the certificate must identify the title of *each* pleading or paper served. For example:

> I hereby certify that copies of the [Title of Document] were deposited in the United States mail, postage prepaid, on [Date], 2000, addressed to:
>
> [Names and addresses]

(c) Identify and Attach Matrix or List. If the pleading or other paper being served is directed to persons on a Matrix or other list, the certificate must identify the Matrix or list and counsel must attach the Matrix or list to the certificate. For example:

> I hereby certify that copies of the [Title of Document] were deposited in the United States mail, postage prepaid, on [Date], 2000, addressed to the persons on the attached Matrix.

LBR 9019.2

ALTERNATIVE DISPUTE RESOLUTION

The following guidelines and procedures are hereby adopted to assist parties attempting to resolve their bankruptcy disputes through a process other than presentation to the court.

(a) General Guidelines for Alternative Dispute Resolution Processes

(1) Any alternative procedure employed to resolve a dispute pending before the United States Bankruptcy Court for the District of Kansas is governed by District of Kansas Rule 16.3, any other rules or guidelines adopted by the United States District Court for the District of Kansas, and this rule.

(2) The judge to whom a case has been assigned may, at the earliest appropriate opportunity, encourage or require the parties and their counsel who are involved in a dispute to attempt to resolve or settle the dispute using an extrajudicial proceeding such as mediation, a case settlement or evaluation conference, or another alternative dispute resolution process unless:

(A) It would be futile;

(B) The mediator indicates the case is inappropriate for the process;

(C) The parties agree that a request for procedural action by the court will facilitate settlement; or

(D) In the opinion/judgment of the mediator or court official, there is a danger of physical harm to any party connected with the process.

(3) The judge may refer a case for an extrajudicial proceeding to be supervised by any other judge of the district or bankruptcy court, any retired district or bankruptcy judge, or any neutral attorney. If the parties mutually agree on a neutral non-attorney, the judge shall consider and may refer the case to that person. The person to whom the case is referred will generally be called "mediator" in the balance of this rule.

(4) Court-ordered or court-directed mediation/ADR is established by entry of an Order Directing Parties to Participate in Alternative Dispute Resolution, on a form order available from the clerk=s office; no motion is required. This order also sets forth the amount of the fee for the mediator which is to be assessed equally among the participants, and directs that the fee be paid at the commencement of the alternative dispute resolution process.

(5) The mediator sets and convenes the first meeting between the participants, and files with the court a report on the status of the alternative dispute resolution process within 45 days of the initial appointment. As part of the mediation, case settlement, or evaluation conference process, the parties, their counsel, and the mediator discuss every aspect of the case which bears on its settlement. The mediator meets privately with each party and the party's counsel to discuss the

mediator's evaluation of the case. Except for good cause shown, it is mandatory that each party have a representative with settlement authority attend the mediation, case settlement, or evaluation conference process. The court may, as it deems appropriate, make this paragraph applicable to any other alternative dispute resolution process.

(6) No written statements or memoranda the parties may submit to the mediator under this order will be placed in the court file. Such statements and memoranda, and any other communications which take place during or in connection with the extrajudicial process, are confidential and will not be admissible or discoverable in any proceeding. The mediator must not communicate to the judge any matter concerning the proceeding except whether the case has been settled or that a party or attorney has failed to appear.

(7) Upon conclusion of the alternative dispute resolution process, either by settlement or by impasse, the mediator must submit to the court a Notice of Completion of Alternative Dispute Resolution, signed by the participants and the mediator, which thereafter may either be returned to the court=s docket for hearing or await other disposition at the discretion of the court. The Notice of Completion of Alternative Dispute Resolution must be submitted on a form available from the clerk=s office, setting forth that the participants have:

(A) Reached settlement of the issues in dispute and will submit an approved Journal Entry to the court;

(B) Reached settlement of the issues and agree that no Journal Entry is required; or

(C) Been unable to reach settlement on the issues in dispute and acknowledge that this impasse will subject the matter to be returned to the court=s docket for hearing and/or resolution.

(b) Special Guidelines for Mediation

(1) In order to facilitate access to mediation, the court will maintain a list of attorneys that the court knows are ready, willing, and able, and have been trained and qualified to act as mediators. Mediator qualifications will be reviewed by the court on an annual basis.

(A) Eligibility for placement on the court=s list requires that an attorney:

(i) Have at least 3 years of substantive experience in the area of bankruptcy law.

(ii) Have completed at least 30 hours of basic mediation skills training plus 10 hours of training related to bankruptcy or the civil litigation system. Such training must include conflict resolution techniques, neutrality, agreement writing, ethics, role playing, communication skills, case evaluation, and the laws governing mediation, and be completed in 30 days or less if in a nontraditional academic setting; and in 120 days or less if occurring in a traditional academic setting.

(B) To remain eligible, a mediator must meet the following additional requirements each compliance year, which begins on July 1:

(i) Complete 6 hours of bankruptcy continuing legal education (CLE) and 6 hours of alternative dispute resolution CLE.

(ii) The mediator must submit verification of completion of these CLE hours to the court by August 1 following the end of each June 30 compliance year.

LBR 9027.1

REMOVAL/REMANDS

(a) Fed. R. Bankr. P. 9027 controls the procedure for removal of claims or causes of action in civil actions under Title 28 U.S.C. ' 1452. The filing of a Notice of Removal with the Clerk of Bankruptcy Court requires payment of a filing fee that will not be satisfied by the redundant filing of such a motion with the Clerk of the District Court.

(b) A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within the 20 day time period for an answer as set out in Fed. R. Bankr. P. 9027(g).

LBR 9029.1

AMENDMENT OF RULES

These rules may be amended as prescribed by Fed. R. Bankr. P. 9029 and Fed. R. Civ. P. 83 by publication with invitation for written comment.

LBR 9029.2

STANDING ORDERS

By vote of a majority of the judges of the United States Bankruptcy Court for the District of Kansas, the court may from time to time issue standing orders addressing administrative and procedural concerns or matters of temporary or local significance. Each standing order, unless expressly made effective until further order, must include the date it is to become effective and the date of its expiration. Standing orders have the same force and effect as other rules of the court. They will be numbered consecutively by calendar year (e.g., 99-1) and be cited as D. Kan. Bk. S.O. 99-1, e.g. Public notice of the issuance of standing orders will be given in such manner and for such time as determined by the majority of the bankruptcy judges for the District of Kansas. Such notice will be given prior to the effective date of the Standing Order except in cases of emergency.

LBR 9070.1

FILING - NUMBER OF COPIES

See D. Kan. LBR 1007.1 and 9013.1.

LBR 9072.1

EXHIBITS

(a) Exhibits to Pleadings or Papers. Bulky or voluminous materials should not be submitted for filing with a pleading or paper or incorporated by reference therein, unless the materials are essential. The court may order any pleading or paper stricken if filed in violation of this rule.

(b) Preparation of Trial Exhibits. When practical, all documentary exhibits must be prepared for trial in the following manner:

(1) Original exhibits must be premarked by counsel by affixing exhibit stickers thereto. Plaintiffs or movants must use numerical symbols, e.g., 1, 2, etc. Defendants must use alphabetical symbols, e.g., A through Z, AA, BB, etc. If there is more than one plaintiff and/or defendant in the case, the surname or corporate name of the offering party must be placed on the exhibit sticker for further identification.

(2) Copies of exhibits must be prepared for the judge and each party; the original will be utilized by the witness.

(3) An exhibit cover sheet in form prescribed by the clerk must be prepared for each set of exhibits. The original must be placed with the clerk and copies submitted to the parties and the judge.

(4) Any document offered in a hearing or trial that is not clearly legible may be excluded by the court.

(c) Withdrawal of Exhibits. Exhibits introduced into evidence may be withdrawn from the custody of the clerk with permission of the clerk or upon order of the court. Any exhibit not withdrawn after final disposition of the proceeding may be destroyed or otherwise disposed of by the clerk.

LBR 9074.1

JOURNAL ENTRIES AND ORDERS

In all cases where the court directs that a judgment, decision, or ruling be settled by journal entry or order, it must be prepared in accordance with the direction of the court. In cases where the parties announce to the court that a matter is to be settled by agreement, a party must prepare the order. Counsel preparing the journal entry or order, whether at the direction of the court or under an announcement of agreement, must within 10 days, unless otherwise directed by the court, serve copies thereof on all other counsel involved in the matter who must, within 10 days after service, file and serve any objections in writing. The original journal entry or order must be submitted to the court at the time copies are served on counsel. If no objections are filed and served within 10 days of service, the court may enter the journal entry or order. The court will settle any objections to the journal entry or order.

LBR 9078.1

CERTIFICATES OF SERVICE

Certificates of service of papers must state:

(1) the name and address of the attorney or party served;

(2) the capacity in which such person was served (e.g., as attorney for debtor or a particular party);

(3) the manner of service; and

(4) the date of service.

STANDING ORDERS

AT THE TIME OF PUBLICATION OF THESE RULES, THE FOLLOWING STANDING ORDERS WERE IN EFFECT. FOR ADDITIONS, MODIFICATIONS OR DELETIONS TO THESE ORDERS, CONSULT THE CLERK'S OFFICE.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 00-1

PREPARATION AND FILING OF MATRIX

Pursuant to D. Kan. LBR 1007.1, all petitions filed must be accompanied by a matrix. The matrix must be prepared in accordance with the following guidelines:

A. An optically scannable creditor(s) matrix (accompanied by a verification) is required when:

(1) a new case (all chapters) is filed,

(2) an amendment to a case (all chapters) is filed containing additional creditors. This matrix must list only those additional creditors as listed on the amendment to schedules.

B. Matrices must be an **original** printed document on standard bond paper, which is free of lines, marks, or smudges.

C. Matrices must be prepared in one of the following standard typefaces or print styles: Courier 10 pitch, Prestige Elite 12 Pitch, or Letter Gothic 12 pitch. Character pitch must match character spacing. Do not use proportional spacing. **DOT MATRIX PRINTERS ARE NOT SCANNABLE AND WILL NOT BE ACCEPTED.**

D. Matrices must be typed in a single column with each line left justified. Addresses must be in a single column in order for the optical character reader to scan the material automatically from left to right, line by line.

E. Each name/address must consist of no more than 5 lines with the city, state and zip codes located on the last line. **DO NOT** type "attention" lines or account numbers on the last line. If needed, this information i s to be placed on the second line of the name/address. There must be at least 2 blank lines between each of the name/address blocks.

F. All states must be two-letter abbreviations (both letters capitalized) and in conformance with postal abbreviations.

G. Lists must be typed so that no letters are closer than one and one-half (1 **2**) inches from any edge of the paper.

H. Each line must not exceed 30 characters in length.

I. In conformance with U.S. Postal Service requirements, all addresses should be devoid of punctuation, e.g. periods or commas, any and all special characters, e.g. #, %, /, and ( ), except the hyphen in the ZIP+4 code. **The name and address must not be in all capital letters except for the two-letter state abbreviation.** This is the only exception to the U.S. Postal Service requirements.

J. **DO NOT** include the debtor, joint debtor, attorney for debtor, Interim Trustee, or U.S. Trustee on matrices. They will be retrieved automatically by the computer for noticing. The name of the debtor should be listed on the **REVERSE** side of each page for identification purposes.

K. All creditors are to be alphabetized.
L. Do not duplicate names and address.

A debtor may also file a disk in the format set forth in the AClerk=s Instructions for Submitting a Matrix on a Disk.@

Dated this 20th day of December, 2000.

APPROVED:

/s/James A. Pusateri
JAMES A. PUSATERI, CHIEF JUDGE

/s/John T. Flannagan
JOHN T. FLANNAGAN, JUDGE

/s/Robert E. Nugent
ROBERT E. NUGENT, JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

STANDING ORDER NO. 01-2

SCHEDULING, LISTING AND NOTICING
THE UNITED STATES AS A CREDITOR

(a) Departments, Agencies and Instrumentalities of the United States. If a department, agency, or instrumentality of the United States is a creditor, the schedules and matrix must list that agency at the address provided by Standing Order of the court. Any notice or service given to an address listed in the Standing Order will be in addition to any notice required by statute, rule or regulation.

(b) United States Attorney's Office. In all cases in which any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and matrix must also list the United States Attorney's Office located in the division headquarters in which the petition for relief has been filed.

(c) Register of Addresses. This list of addresses constitutes the Clerk=s register of mailing addresses as required by F.R.Bank.P. 5003(e).

If one of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule and matrix should list the agency at the address indicated herein:

1. DEPARTMENT OF AGRICULTURE
   (excepting Farm Services Agency, Ag Credit Division and Commodity Credit Divisions; and Rural Economic Community Development, which are hereafter individually set forth)

   Regional Counsel
   Department of Agriculture
   Post Office Box 419205
   Kansas City MO 64141-0205

   Farm Services Agency
   Ag Credit Division
   3600 Anderson Avenue
   Manhattan KS 66503-2511

   Farm Services Agency
   Commodity Credit Division
   3600 Anderson Avenue
   Manhattan KS 66503-2511

Rural Development
1200 SW Executive Drive
P O Box 4653
Topeka KS 66604-0653

2. DEPARTMENT OF EDUCATION (DOE)
(Debtor(s)' Social Security Number must be included.)

Regional Director Region IX
Department of Education
Office of Postsecondary Education
50 United Nations Plaza
San Francisco CA 94102

3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
(Debtor(s)' Social Security Number must be included.)

Department of Health and Human Services Region VII
Office of the General Counsel
601 East 12th Street Room 411
Kansas City MO 64106

4. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Regional Counsel
Department of Housing and Urban Development
Professional Building
400 State Avenue
Kansas City KS 66101-2406

5. INTERNAL REVENUE SERVICE (IRS)

Internal Revenue Service
271 W 3rd Street N Suite 3000
STOP 5333 WIC
Wichita KS 67202

6. SMALL BUSINESS ADMINISTRATION (SBA)

District Counsel
US Small Business Administration
Lucas Place
323 West 8th Street Suite 501
Kansas City MO 64105; or

District Counsel
U S Small Business Administration
100 East English Suite 510
Wichita KS 67202

7. SOCIAL SECURITY ADMINISTRATION
(Debtor(s)' Social Security Number must be included.)
Office of General Counsel
Social Security Administration Region VII
Federal Office Building
601 East 12th St Room 535
Kansas City MO 64106

8. UNITED STATES POSTAL SERVICE

Law Department
US Postal Service
Suite 1480 South
300 South Riverside Plaza
Chicago IL 60606-6617

9. VETERANS ADMINISTRATION (VA)

District Counsel
Veterans Administration
5500 East Kellogg
Wichita KS 67218

Dated this 20th day of December, 2001.

APPROVED:

/s/James A. Pusateri
JAMES A. PUSATERI, CHIEF JUDGE

/s/John T. Flannagan
JOHN T. FLANNAGAN, JUDGE

/s/Robert E. Nugent
ROBERT E. NUGENT, JUDGE